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THE ENCOMIENDA IN NEW SPAIN

FORCED NATIVE LABOR IN THE
SPANISH COLONIES, 1492-1550

BY

LESLEY BYRD SIMPSON



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“The encomienda is a right granted by Royal Grace to the deserving of the Indies to receive and collect for themselves the tributes of the Indians that shall be given them in trust, for their life and the life of one heir . . . with the charge of looking after the spiritual and temporal welfare of the Indians and of dwelling in and defending the Provinces where they are given them in trust and of doing homage and making personal oath to fulfill all this.”

Cédula of Philip II, 1571 (Solórzano, *Política Indiana*, I, 237).

AFFECTIONATELY DEDICATED
TO
HERBERT INGRAM PRIESTLEY

CONTENTS

CHAPTER	PAGE
I. INTRODUCTION.....	1
II. THE INDIAN LEGISLATION OF ISABELLA.....	19
III. THE REGENCY OF FERDINAND.....	34
IV. THE LAWS OF BURGOS.....	48
V. THEOCRACY.....	61
VI. THE PARTITION OF MEXICO.....	80
VII. THE FIRST AUDIENCIA.....	97
VIII. UNDERMINING THE ENCOMIENDA.....	112
IX. FUENLEAL'S GOVERNMENT.....	127
X. LAS CASAS AND THE REFORM MOVEMENT.....	141
XI. MENDOZA'S FIRST YEARS.....	155
XII. THE NEW LAWS AND AFTER.....	167

APPENDICES

I. INSTRUCTIONS OF THE JERONYMITES.....	191
II. INSTRUCTIONS OF LAS CASAS.....	206
III. GRANT OF ENCOMIENDA.....	208
IV. RODRIGO DE ALBORNOZ TO CHARLES V.....	220
V. JUAN DE ZUMÁRRAGA TO CHARLES V.....	224
VI. MOTOLINÍA TO CHARLES V.....	249
BIBLIOGRAPHY.....	273
INDEX.....	281

ABBREVIATIONS USED IN THE FOOTNOTES

D.I.I.: Colección de documentos inéditos relativos al descubrimiento, conquista y organización de las antiguas posesiones españolas. 42 vols. Madrid, 1864-89. Joaquín F. Pacheco, Francisco de Cárdenas, Luis Torres de Mendoza, eds.

D.I.M.: Colección de documentos para la historia de México. 2 vols. Mexico, 1858-66. Joaquín García Icazbalceta, ed.

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THE ENCOMIENDA IN NEW SPAIN

CHAPTER I

INTRODUCTION

Without the conquests of Hernán Cortés, what would have been achieved by Fray Bernardino de Sahagún, Father Motolinía, and the other heroic Franciscans who sowed the seed of the Gospel in New Spain? Before converting a single Indian they would have been sacrificed to repulsive idols and their skulls would have rested nameless in the ossuary of the victims. Force is not truth or justice, but it is an indispensable element for the propagation of civilization, so that justice and truth may be the base of human societies.¹

A present-day reader of the historians of the Spanish conquest of America is constantly surprised by the heat they display. For centuries writers have bemoaned the iniquities of the Spaniards in the New World. A thesis on Spanish barbarity is irresistibly easy to support, and irresistibly attractive to a foreigner. This hoary tradition dates from the publication in 1552 of the *Brief Relation of the Destruction of the Indies* by Bartolomé de Las Casas. In the pages of the "Apostle of the Indies" one reads an indictment of his countrymen so complete, so circumstantial, so blasting, so thoroughly satisfactory, in short, that ever since his day it has been the indispensable handbook of the historians of America.

Let us admit at the outset that there is little to be said from a humanitarian point of view in favor of the exploitation of weaker races by the stronger. However, if the Spaniards achieved earlier and greater notoriety in it than their European rivals,

¹ Serrano y Sanz, *Orígenes de la Dominación Española en América*, 381.

assuredly it was not because Spain's villainy was the blacker. Rather was it due to the extraordinary fear, hatred, and jealousy which in the sixteenth and seventeenth centuries she evoked beyond the Pyrenees. This is understandable enough, in all conscience, in the light of the history of the times. Spain's championship of the Counter-Reformation and her long and bloody wars in the Low Countries account for the fear and hatred of her northern neighbors, while the stately procession of her treasure ships from the New World made it doubly easy to believe in her depravity.

Thus when Spain was at the apogee of her political power and all good Protestants were shuddering at the thought of the dungeons of the Inquisition, the *Brief Relation* came as a veritable godsend to those most interested in believing it. Better still, it was written by a Spaniard of unquestioned authority, by a bishop! Wherever the Spanish name was hated the *Brief Relation* found a ready sale and a readier credence, and its numerous reprints show that the popular appetite for bloody horrors was fully as great then as now. Sabin's *Dictionary* lists, for the sixteenth and seventeenth centuries, three Italian editions, three Latin, four English, six French, eight German, and eighteen Dutch. The crescendo of their titles tells the tale:

Spiegel der Spaenschen Tirannijs, Waer inne verhaelt worden, de moordadige schandelijske ende grouwelijske seyten, die de selue Spaen-giarden ghebruyet hebben in den landen van Indien . . . [n.p.] 1579.

Histoire admirable des horribles insolences, Crvavtez, & tyrannies exercees par les Espagnols es Indes Occidentales . . . Paris, 1582.

Neue Welt, Warhafftige Anzeigung Der Hispanier grewlichen, abschewlichen vnd vnmenschlichen Tyranney, von ihnen inn den Indianischen Ländern, so gegen Nidergang der Sonnen gelegen, vnd die Neue Welt gennet [*sic*] wird, begangen . . . [n.p.] 1597.

Popery Truly Display'd in its Bloody Colours: Or, a Faithful Narrative of the Horrid and Unexampl'd Massacres, Butcheries, and all manner of Cruelties, that Hell and Malice could invent, committed by the Popish Spanish Party on the Inhabitants of West-India . . . Composed first in Spanish by Bartholomew de las Casas, a Bishop there, and an Eye-Witness

of most of these Barbarous Cruelties; afterward Translated by him into Latin, then by other hands, into High-Dutch, Low-Dutch, French, and now Taught to speak Modern English . . . London, 1689.

The Latin edition of 1664 was suitably illustrated. One cut represents a meat shop. Its armored proprietor is doing a brisk trade in human flesh, while without the door another conqueror superintends the dissection of a luckless savage, and a tender babe is roasting on a grill. These illustrations were terrific enough to impose on so late a writer as John Fiske.²

Thomas Gage, writing in 1648, used the disclosures of Las Casas to justify the seizure of the Spanish colonies by the English. On the other side, Antonio de Leon got out his *Confirmaciones Reales* in an attempt to stem the rising tide of prejudice which was fed by Las Casas' book. He testifies to its popularity:

. . . There is no book more eagerly and diligently sought after by foreigners coming to this Court than that of the Bishop of Chiapa, so much so that it has become very rare . . . Their esteem for it is not because of its learning and wit, but because of the great freedom and harshness with which its author treats of the Spaniards of the Indies, minimizing and denying their achievements and emphasizing their cruelties with a thousand synonyms and circumlocutions, which is what most delights foreigners.³

The revelations of the good bishop are really too bad not to be believed, and continue to find publishers today. Francis MacNutt includes the *Brief Relation* in the appendix to his biography of Las Casas (1909), "with the healthy purpose, as it seems," says Serrano y Sanz, "of continuing the campaign of defamation against Spain, since he rectifies none of the calumnies contained in that libel."⁴

Las Casas was a man of such admirable steadfastness that it is impossible not to sympathize with him in the uncompromising

² Fiske, *The Discovery of America*, II, 437.

³ Antonio de Leon, *Confirmaciones Reales*, fol. 95. For a fuller treatment of the legend of Spanish barbarity, etc., see the able monograph of Julián Juderías, *La Leyenda Negra* (Madrid, 1914).

⁴ Serrano y Sanz, *Orígenes*, 1.

fight which he kept up for half a century in behalf of the Indians. That in his doctrinaire fervor he sometimes exceeded the limits of strict justice in his denunciations of his countrymen is not surprising, and it is not hard to understand the unending stream of invective which year after year he poured hot on the heads of his opponents. At the same time one can appreciate a certain restiveness which was not long in appearing among them. It was not an age remarkable for its restraint.

Now Las Casas' tract is very likely true in the main, but none the less it remains a tract. He is clearly interested in nothing but exposing the frightfulness of the Spaniards, and the conventional belief that the frightfulness of the Spaniards was frightful, is true beyond a doubt. But that their whole treatment of the native races was unmitigated deviltry, unrelieved by any kindlier traits, is at least open to question, and a generalization upon the treatment of the Indians going back to such frank propaganda as Las Casas' writings, is necessarily one-sided and misleading. It is purposed in this chapter to examine those writers of the past hundred and fifty years who have treated the subject, not so much with the idea of contesting the accuracy of their information, as to show that in their interpretations they have, with few exceptions, reflected the carping and denunciatory attitude toward the Spaniards which has been the tradition in the history of Spanish colonization since the day of the *Brief Relation*.

After the disappearance of the political situation which had given the *Brief Relation* its vogue in the sixteenth and seventeenth centuries, the philosophers of the eighteenth seized eagerly upon the Spaniards as horrible examples of ignorance, fanaticism, and inhumanity. In the pages of Las Casas they found their state of nature and their natural man made to order, and their indignation at the spoliators of this idyll is second only to Las Casas' own. Witness the wrath of the philosopher Pauw, for instance:

The Spaniards, those indolent and fanatical possessors of a country which they have devastated like brigands and barbarians, have never shown the slightest curiosity to gather the débris of the prodigious edifice. Content with having demolished it with their avaricious hands, they have neglected its ruins⁵

The learned Abbé Raynal is horrified at an *auto de fe* which he witnesses, in his mind's eye. He can no longer contain himself and bursts into apostrophe:

Hold, execrable monsters! . . . Villains that you are, dissolute priests, lewd monks, do not let your crimes suffice to excite the anger of heaven But they hear me not, and the wretched victims of their superstitious barbarity are hurled into the flames.⁶

The Abbé lingers curiously for a full quarto page over the homosexuality of the Mexicans, and remarks the corresponding and excusable ardor of their neglected women for the Spaniards. He even goes so far as to ascribe the easy conquest of the New World partly to this passion of the native women for their conquerors—a notion which he borrowed from Pauw.⁷

He is as much appalled by the inconsistencies of the early Spanish chroniclers as by the horrors they describe, and again feels called upon to address them:

Stupid narrators! Before a healthy philosophy turned its gaze upon your strange contradictions; while the hatred which was felt for you gave entire credence to your silly exaggerations, the world, seeing that Mexico was no longer aught but a desert, was convinced that you had precipitated innumerable generations into the tomb. And it is I, I who look upon you as the maligners of your own character, who, even while I accuse you of ignorance and imposture, become, as much as it is possible for me to do so, your apologist.⁸

It is with relief that one turns to that austere and scholarly Scotchman, William Robertson. While he shows scant sympathy for the Spaniards, he has no patience whatever with the undigested balderdash written about them by the historians of the

⁵ Pauw, *Recherches Philosophiques sur les Américains*, I, xii.

⁶ Raynal, *Histoire Philosophique et Politique*, II, 59.

⁷ *Ibid.*, II, 25–26; Pauw, *Recherches*, I, 69–71.

⁸ Raynal, *Histoire*, II, 50–51.

age of reason. "Too impatient to inquire," says Robertson, "they hastened to decide; and began to erect systems, when they should have been searching for facts on which to establish their foundations."⁹

Robertson did not know Las Casas' manuscript *Historia de las Indias*, but of the *Brief Relation* he repeatedly shows his distrust.¹⁰ Llorente accuses him of making Las Casas establish Negro slavery in the Indies.¹¹ Now Robertson does denounce Las Casas for his advocacy of Negro slavery, but he carefully points out that it had been introduced in the Indies as early as 1503, or fourteen years before Las Casas' proposal.¹² He had little access to documents of the period, but by a critical and painstaking use of the early chroniclers he made a surprisingly exact, if summary, account of the Spanish conquest, and remains today one of the most fair-minded and readable historians of Spanish America.

In 1822 appeared Llorente's *Oeuvres de Las Casas*, introduced by a short "Vie de Las Casas," a eulogy compiled from Las Casas' writings and Herrera's *Historia General*. In editing the works of the former he found his ears so offended by the crudities of sixteenth-century Spanish that he did not scruple to revamp them to conform to the *délicatesse* of the neo-classic school. Llorente had all the hatred of a renegade and all the contempt of an emancipated *afrancesado* for the institutions of his country. In his "Vie de Las Casas" he is only too plainly eager to perpetuate the "black legend" at its worst. This same eagerness led him earlier to undertake his discredited *Historia crítica de la Inquisición de España*, which has been exposed for its reckless exaggerations by Henry Charles Lea.¹³

⁹ Robertson, *History of America*, I, 286.

¹⁰ *Ibid.*, II, 228, 452, 461.

¹¹ Llorente, *Oeuvres de Las Casas*, I, vii.

¹² Robertson, *History of America*, I, 225-226; and below.

¹³ Lea, *History of the Inquisition of Spain*, IV, 517, 524. Modern Spanish opinion of Llorente will be found in Menéndez y Pelayo, *Historia de los Heterodoxos Españoles*, I, 39, (1911 ed.); and in Cejador y Frauca, *Historia de la Lengua y Literatura Castellana*, VI, 325-326.

The romantic movement with its humanitarian agitation brought a renewed interest in the slaving activities of the Spaniards, and Sir Arthur Helps wrote his *Conquerors of the New World and their Bondsmen* (1848-1852), which he later expanded into *The Spanish Conquest in America* (1855-1861). This latter work is the most able and complete treatise to be had on the subject of Indian slavery, but such is Sir Arthur's hatred of human bondage that he can rarely refrain from loading his pages with bitter tirades against the masters. For a man of such impulses no writer could have been more opportune than Las Casas. In fact, it may be doubted whether Helps would have undertaken his history without Las Casas, so plainly is the *Spanish Conquest* a reflection of the *Brief Relation*. Helps admits that the apostle's enthusiasm got the better of him at times, yet he finds him scrupulously truthful. It will be interesting to learn how Sir Arthur reaches this conclusion. Las Casas has just described the hanging and burning of thirteen Indians "in honour and reverence of Christ our Lord and his twelve apostles," which he has seen with his own eyes.

And here I must say for Las Casas—says Sir Arthur—that I have not the slightest doubt of the truth of any statement which he thus vouches for. He manifests, throughout, in various little things his accuracy and truthfulness. For instance, he is careful to point out the exact pronunciation of the Indian names . . . ¹⁴

He returns to his defense of Las Casas' credibility in his next volume. Las Casas has just related several hair-raising details of the conquest of Trinidad.

Here, too, I must premise that Las Casas may, according to my observation of his writings and character, be thoroughly trusted whenever he is speaking of things of which he has competent knowledge. Seeing his vehemence, an ordinary observer might be apt to doubt his accuracy, though there has never been a greater mistake, or a more common one, than to confound vehemence with inaccuracy. Far from being an inaccurate man, he was studiously accurate, which is to be seen throughout his

¹⁴ Helps, *Spanish Conquest*, I, 148.

history in all manner of little things. His countenance, too, is that of a first-rate lawyer, extremely benevolent, but at the same time indicating great acuteness, brilliancy, and even elegance in the character . . . He was, moreover, a gentleman . . .¹⁵

This last remark was elicited by Las Casas' reticence about the names of the authors of the atrocities of the *Brief Relation*. One wonders about this. In 1512, for example, during the agitation begun by the Dominicans against the exploitation of the Indians, the Spaniards of Española sent an emissary to Spain in the person of one Fray Alonso de Espinal, a Franciscan, to put their case before the Court. Las Casas does not hesitate to imply that Fray Alonso was bribed to do this by the promise of an encomienda for his monastery:

The good Franciscan father, Fray Alonso de Espinal, with his not inconsiderable ignorance, accepted the embassy . . . I dare not say that what induced him to accept this mission was that in a past distribution, to my knowledge, at least one [encomienda] was given to the Franciscan monastery of Concepción de la Vega.

This time, however, he goes on to say, the Franciscans were cheated of their expectations and received no encomienda, although "it would have been better for the Indians if they had, because the religious would have treated them better."¹⁶

In the matter of Las Casas' veracity Sir Arthur also protests too much. In the fourth volume of the *Spanish Conquest*, while discussing Las Casas' estimate of the number of Indians destroyed by the Spaniards, he again insists on the essential accuracy of the *Brief Relation*. Las Casas makes the Spaniards destroy twelve to fifteen millions of natives in the first forty years of the occupation, which figure, he assures the reader, "is very just and accurate." Now Helps is willing to accept the lesser

¹⁵ Helps, *Spanish Conquest*, II, 4. One is inevitably reminded here that Sir Arthur was one of the two chosen by Queen Victoria to write the biography of Prince Albert.

¹⁶ Las Casas, *Historia de las Indias*, III, 373. The Spanish government, unaware of Fray Alonso's ignorance, appointed him on the important commission which drew up the Laws of Burgos in 1512 (Relation of the government of the Indies, in Serrano y Sanz, *Orígenes*, Appendix, 538-540).

figure, if the period be lengthened to sixty years and the number of deaths by disease be included.¹⁷ But Las Casas makes the number thirty millions by 1550, and by 1560 has reached the respectable total of forty millions!¹⁸ Unfortunately, Sir Arthur is silent upon this point, but the above passages will do to show his attitude toward his principal source. Las Casas is a gentleman, has the face of a lawyer, and is thoroughly to be trusted whenever he has competent knowledge. Which immediately suggests that even Sir Arthur suspected him at times of writing without competent knowledge. And what criterion did he use in judging the competence of Las Casas' knowledge? In short, after reading the *Spanish Conquest in America*, the ordinary observer is almost forced to continue in his ungentlemanly doubts concerning Las Casas' trustworthiness.

What Sir Arthur could not make himself admit was that his hero would deliberately exaggerate when he thought he was justified by the occasion. Now Las Casas was in Española and Cuba from 1502 until 1512, and thereafter spent at least fifteen years in various parts of the Indies up to the writing of his *Brief Relation* (1542), and hence must be considered as having competent knowledge for that period. In one chapter he describes the abuses of the Indians in Española:

The burdens that were loaded on them were from three to four arrobas, and they carried them a hundred and two hundred leagues, and the Christians had themselves carried in hammocks . . . on the backs of the Indians, because they always used them as beasts of burden. They had sores on their shoulders and backs from the loads, like badly used pack animals.¹⁹

There is a letter extant, signed by fifteen Dominican missionaries of Española, and addressed to Cardinal Chièvres, chancellor of Charles V. In it the identical abuse is described and in words so close to those of the *Brief Relation* that one hand could have written them both.

¹⁷ Las Casas, *Brevísima Relación*, 219. Helps, *Spanish Conquest*, IV, 262.

¹⁸ Las Casas, *Historia de las Indias*, V, 75, 164.

¹⁹ Las Casas, *Brevísima Relación*, 227.

The Castilians used the Indians instead of pack animals to transport their supplies from one place to another, and they sent them with loads *sixty or seventy leagues*; the load that each one carried was *two arrobas*, and as these wretched men wore no clothing, but carried the burdens on their bare skin, they got sores on their backs like pack animals.²⁰

Las Casas says of the slave raids in the Bahamas:

In truth, one [of these slavers] told me that from the Lucayos [Bahamas], where great havoc was wrought in this manner, to Española, a distance of sixty to seventy leagues, a ship might sail without compass or chart, guiding itself solely by the trail of dead Indians in the sea who had been thrown from the ships.²¹

The Dominicans say of the same thing:

It happened that every time Indians were brought from their lands so many died of hunger on the way that *we think* that by their trail in the sea another ship might find its way to port.²²

The Dominicans' letter affords an excellent control over the *Brief Relation*. They were both written with the same end in view. One had precisely as much reason to exaggerate as the other, and yet Las Casas shows himself far more immoderate. Is it plausible, moreover, to suppose that one of the slavers *told* Las Casas precisely what the Dominican Fathers had only *thought* twenty-odd years earlier? In another place Las Casas' passion for mighty numbers leads him to state that there were four million Indian slaves in the Indies, a figure denied by his contemporary, Father Motolinía, who makes an outside estimate of two hundred thousand.²³

It is necessary to emphasize here that the purpose of this chapter is not primarily to controvert the testimony of the *Brief Relation*, but to show that the violent partisanship of Las Casas' tract has had a vicious effect upon the historians of

²⁰ Dominican Fathers to Cardinal Chièvres, 1516 (or 1519), in D.I.L., XXXV, 207. (Italics not in original.)

²¹ Las Casas, *Brevisima Relación*, 266.

²² Dominican Fathers to Cardinal Chièvres, 1516, in D.I.L., XXXV, 233. (Italics not in original.)

²³ Llorente, *Oeuvres de Las Casas*, II, 24.

Motolinía to Charles V, Jan. 2, 1555, in D.I.M., I, 272-273.

the Spanish conquest. They, like the foreigners mentioned by Antonio de León, have been eager to believe the worst and have made the *Brief Relation* the keynote of their criticism of Spain's Indian policy. That Las Casas could be a genuine historian when he chose is proved by his monumental *Historia de las Indias*, which, unfortunately, was not published until 1875. This admirable work, in spite of many defects, is, and will remain, one of the great sources for the early history of America. The *Brief Relation*, however, was propaganda written for the special purpose of popularizing the reforms laws of 1542, known as the New Laws.

A generation after the appearance of Helps' *Spanish Conquest in America* came Justin Winsor's *Narrative and Critical History of America*. The period had been marked by great activity in the publication of documents concerning the early years of the Spanish occupation, and it might therefore be expected that this work should live up to its high title. An examination of George Edward Ellis's chapter on "Las Casas and the Relations of the Spaniards to the Indians" is decidedly disappointing. The spirit of this lively essay is best illustrated by a few passages:

There was something phenomenal and monstrous, something so aimless, reckless, wanton, unprovoked, utterly ruinous even for themselves, in that course of riot and atrocity pursued by the Spaniards, which leads us—while palliation and excuse are out of the question—to seek some physical or moral explanation of it. This has generally been found in referring to the training of Spanish nature in inhumanity, cruelty, contempt of human life, and obduracy of feeling, through many centuries of ruthless warfare . . . The Holy Office of the Inquisition, with all its cavernous secrets and fiendish processes, dates also from the same period, and gave its fearful consecration to all the most direful passions.²⁴

Again:

And here we may bring upon the scene that one, the only Spaniard who stands out luminously, in the heroism and glory of true sanctity, himself a true soldier of Christ.²⁵

²⁴ Winsor, *Narrative and Critical History of America*, II, 301.

²⁵ *Ibid.*, II, 303.

It is hardly necessary to mention that this is Las Casas. In his description of the "apostle," Ellis reaches an extraordinary pitch of narrative and critical fervor:

Truly was he a remarkable and conspicuous personage,—unique, as rather the anomaly than the product of his age and land, his race and fellowship. His character impresses us alike by its loveliness and its ruggedness, its tenderness and its vigor, its melting sympathy and its robust energies. His mental and moral endowments were of the strongest and the richest, and his spiritual insight and fervor well-nigh etherealized him. His gifts and abilities gave him a rich versatility in capacity and resource. He was immensely in advance of his time, so as to be actually in antagonism with it. He was free alike from its prejudices, its limitations, and many of its superstitions, as well as from its barbarities

There was something phenomenal, as has been said, in the license yielded to the ingenuity of Spanish barbarity. It combined all the devices of inquisitorial torturing with the indulgence of the bestial ferocities of the bull-fight²⁶

It seems almost a desecration, after such a burst of lyrical eloquence, to subject the author's text to a close scrutiny, but the *Narrative and Critical History* enjoyed such wide acceptance in its day that it is necessary to do so.

In the first place, Ellis relies heavily on Llorente's "Vie de Las Casas," which has been discussed above. He accepts and approves of Llorente's emendation of the original text of Las Casas, and repeats his fable about William Robertson. His work, besides having such scanty foundations, has errors which show an ignorance of the literature of the subject, an unaccountable ignorance for 1886. He fails to observe that the islands of San Juan, St. John, and Porto Rico are one and the same island (pp. 318 and 327). He permits that bogeyman of humanitarian writers, Juan de Fonseca, Bishop of Burgos and president of the Council of the Indies, to live twenty-three years beyond his allotted span (p. 311).²⁷

²⁶ Winsor, *Narrative and Critical History of America*, II, 306.

²⁷ It is possible that Ellis confused Juan de Fonseca with Alonso de Fonseca y Acevedo, Archbishop of Santiago, who served in the Council of the Indies from 1526 to 1534.

He is in some doubt about the date of the writing of the *Brief Relation*. The text seems to make this point clear enough. In his chapter on New Spain (*Brief Relation*, 237), Las Casas states: “. . . . and from the year eighteen until today, in the year 1542” On the next page he repeats: “. . . . in this day and year of 1542, and in this month of September” And in his chapter on Santa Marta (p. 258), he says again: “From the year 1498 until today, in the year 1542” There is no evidence, indeed, to show that Ellis consulted any Spanish sources whatever, all the principal collections of which had been published before his day.

It was an age when historians still dared to have feelings. There is Hubert Howe Bancroft, for example, in whose thirty-nine tomes is concealed every conceivable fact regarding the Spanish conquest. With luck the student may discover a great deal of valuable information, but he will suffer from the highly seasoned commentaries which link it together. The *Brief Relation*, which is the touchstone by which to judge these writers, brings forth this from Bancroft:

It is somewhat singular, to say the least, to hear such doctrine from the lips of a Dominican, while yet the dark looming cloud of the inquisition cast, as from the wing of a fallen angel, the dun spectre of its huge eclipse athwart the hemispheres.²⁸

When Bancroft's admiration is awakened, or his sense of justice outraged, he rarely resists the temptation to soar. Las Casas appeals strongly to him:

The Apostle of the Indies he was sometimes called, and the mission he took upon himself was to stand between the naked natives and their steel-clad tormentors. In this work he was ardent, oftentimes imprudent, always eloquent and truthful, and as impudently bold and brazen as any cavalier among them all His cause, which was the right, gave breadth and volume to his boldness, beside which the courage of the hare-brained babblers was sounding brass.²⁹

²⁸ Bancroft, *History of Central America*, II, 239-240.

²⁹ *Ibid.*, I, 274-275.

The extreme prolixity of Bancroft's work and its constant emotional appeal make it difficult to use. It will always be valuable as a vast compendium of Spanish-American history, but its uncritical acceptance of such obviously over-drawn material as the the *Brief Relation* exclude it from consideration as an unbiased treatment of the subject.

In John Fiske's *Discovery of America* (1892), there is a long chapter on Las Casas which is hardly more than a summary of Sir Arthur Helps' book. Since Fiske shares and endorses all of Helps' abounding enthusiasm for their common hero, it has hardly been thought necessary to go into a detailed discussion of his work. One short passage will serve to show Fiske's attitude:

When now and then in the course of the centuries God's providence brings such a life into this world, the memory of it must be cherished by mankind as one of its most precious and sacred possessions. For the thoughts, the words, the deeds of such a man, there is no death. The sphere of their influence goes on widening forever. They bud, they blossom, they bear fruit, from age to age.³⁰

The Spanish-American war revived interest in Spanish colonial affairs. Henry Charles Lea, in the *Yale Review* for August, 1899, wrote a twenty-six page article on "The Indian Policy of Spain." But after due allowance has been made for any influence the war may have had on the author, it is nevertheless disappointing to find so great a scholar as Lea hardly doing more than reflecting the traditional viewpoint. Moreover, his extensive reliance on Las Casas leads him into such errors as a harsh condemnation of the administration of the government of the Jeronymite Fathers in Española. Lea's article is, indeed, only another relation of Las Casas' activities in behalf of the Indians, and, although written with considerable restraint, does little to amend the popular notions on the subject.

Not so Edward Gaylor Bourne, who is the first modern historian to attempt a more just estimate of Spanish achieve-

³⁰ Fiske, *Discovery of America*, II, 482.

ment in the New World. His sane and admirable *Spain in America* (1904), contains a chapter on social conditions in Spanish America which may be said to mark the turning point in the historical attitude toward the subject. His space is too limited to permit of more than a bare outline, and his untimely death prevented his carrying on the work. He deplores judging the entire Spanish colonial period by the brutalities of the conquest as described by Las Casas:

Las Casas was the Lloyd Garrison of Indian rights; but it is as one-sided to depict the Spanish Indian policy primarily from his pages as it would be to write a history of the American negro question exclusively from the files of the *Liberator* That the benevolent legislation of the distant mother-country was not, and probably could not be, wholly enforced will not seem strange to those familiar with our experience with federal legislation on the negro question; but that a lofty ideal was raised and maintained is as true of the Indians laws of Spain as of the Fifteenth Amendment.³¹

For the time being Bourne was preaching in the wilderness. In 1906 Konrad Erb published his doctoral dissertation, *Behandlung der Indier in Theorie und Praxis*, at the University of Berne. In it he proves the remarkable contradiction between the purpose of Spanish laws for the protection of the Indians and the conduct of the Spanish colonists. Needless to say, he is completely successful, more especially since he relies heavily on Las Casas.

The biographies of Las Casas promise in time to become innumerable. Llorente's has already been discussed. Contemporaneous with it was Manuel José Quintana's *Vidas de españoles célebres*, in which he included a life of Las Casas written with cool judgment and rare style, if somewhat summary. Sir Arthur Helps and his son compiled another from the *Spanish Conquest*, in 1867. Ten years later appeared Carlos Gutiérrez's *Fray Bartolomé de Las Casas, sus tiempos y su apostolado*, in which the author made no critical use of his sources, the result

³¹ Bourne, *Spain in America*, 257.

being dreary hero-worship. Not much better is Antonio María Fabié's *Vida de Fray Bartolomé de Las Casas*, which he wrote as an introduction to the Las Casas documents in the *Documentos inéditos para la Historia de España*, in 1878. The documents are indispensable, but the author's credulity and anxiety to enhance his hero make the *Vida* an uninspiring piece of work.

The latest biography in English is Francis MacNutt's *Bartholomew de Las Casas, His Life, His Apostolate, and His Writings* (1909). Here, too, there is little evidence of a salutary skepticism. One is made curious to see the "immense mass of material" (p. xxix), from which MacNutt compiled his book. His historical method is illustrated by his inclusion of the *Brief Relation* without comment. Like Llorente, he is very harsh with William Robertson for accusing Las Casas of responsibility for the introduction of Negro slavery in America. To prove his point he quotes a long passage from the *History of America*, but omits the lines which would weaken his case. All of Robertson's facts were taken faithfully from Herrera, whence MacNutt derived the identical data with which to refute what Robertson did not precisely say.³²

In short, a good biography of this extremely interesting subject remains to be written. It is to be hoped that Serrano y

³² MacNutt, *Bartholomew de Las Casas*, 98-99, 102.

Robertson, *History of America*, I, 225-226.

The lines omitted by MacNutt are as follows:

"As early as the year 1503, a few negro slaves had been sent to the New World. In the year 1511, Ferdinand permitted the importation of them in greater numbers. They were found to be a more robust and hardy race than the natives of America. They were more capable of enduring fatigue, more patient under servitude, and the labor of one negro was computed to be equal to that of four Indians."

It is idle to deny that Las Casas, more than any one person, fomented the introduction of Negro slavery in America. Not only does he himself admit it, but no one ever thought of denying it until the biographer's disease became prevalent. The Empress Isabel was in no doubt about it. In one of her cédulas she directed the governor of Tierra Firme to make ordinances to suppress the Negro slaves brought to the Indies "in an evil hour" at the instance of Las Casas (Empress to the governor of Tierra Firme, April 4, 1531, in D. I. U., X, 72).

Sanz will abide by his original purpose and write one. His valuable *Orígenes de la Dominación Española en América* (1918) contains a great deal of material on Las Casas. It is especially good on the government of the Jeronymite Fathers in Española, and the present work is much indebted to it.

It is surprising that Roger Bigelow Merriman gives so little space to the important matter of Indian exploitation. The six pages devoted to it in the third volume of his *The Rise of the Spanish Empire* (1918-1925), hardly introduce the subject. Then, like his three principal sources, Fabié, MacNutt, and Lea, he is too preoccupied with the ubiquitous bishop to do full justice to the other side of the question.

The most recent writer to discover the barbarity of the Spaniards is Mr. Milton Waldman. In his *Americana, the Literature of American History* (1925), he retails some of the old reliable horrors of the *Brief Relation*, and then one is a bit surprised to learn that . . .

The fame of Bartolomé de Las Casas has diminished considerably in modern times. His value as a historian is largely unrecognized, although his contributions to history have been invaluable. He was America's sublimest and most heroic humanitarian, yet his name remains actually unmentioned in numbers of works of the period (p. 27).³³

* * * * *

The purpose of this introductory essay is simply to show that the whole social history of the Spanish colonies should be re-written, more particularly that of the Spanish-Indian relations, as it is only by a just appreciation of that period that the phenomena of today can be understood. It has been shown that the only writers to give adequate space to the subject have been Helps and Bancroft, but that both were so carried away by indignation as to bring their impartiality in question.

³³ Since this book went to press a new biography of Las Casas by Marcel Brion has appeared (*Bartolomé de Las Casas, "Father of the Indians."* New York, 1929). It furnishes the best possible support to the argument of this chapter, as it repeats the now too familiar story of Spanish villainy, which is contrasted with Las Casas' sanctity, both alike incredible.

It must be admitted that the Spanish treatment of the Indians was abominable, but meanwhile the equally nefarious activities of the other exploiting nations should not be forgotten. India, China, the Guinea Coast, the Congo, the United States, could all furnish their "Brief Relation." Whether the motive has been to turn an honest penny, to take up the white man's burden, or whether it has been downright, unabashed greed, the price of exploitation of the weak by the strong has been suffering, hatred, blood, and brutality the world over. It was not new in the sixteenth century. It is not rare in the twentieth. It is surely right to denounce such low business, but it is hardly history.

In this monograph a beginning will be made in the long task of re-examining the old documents and chronicles, and surveying such new materials as have come to light, in an attempt to get at a more objective picture of social conditions in the early years of the Spanish colonies. It will be confined to the origins of Indian forced labor in Española and to its development in New Spain to about the middle of the sixteenth century, when it had reached the form in which it was to subsist for two centuries longer.

It may be objected that conditions in New Spain were easier than in the other colonies and hence should not be taken as representative. But the exploitation of Indian labor went through the same evolution in all the colonies, and if the Indians fared better or worse in some than in others, the answer is to be sought in local economic conditions, and not in differences of theory.

CHAPTER II

THE INDIAN LEGISLATION OF ISABELLA

When Alexander VI issued his bulls of May 3 and 4, 1493, dividing the newly discovered territories between Spain and Portugal, it was with the express understanding that the monarchs of those two countries were to take as their first duty the conversion of the native populations to Christianity. They were, in fact, spiritual viceroys of the Holy See. With this assumption by the civil government of the religious mission it soon found itself between the devil of papal displeasure and the deep sea of economic necessity. On the one hand the government undertook to see that the natives were protected and made Christians; on the other it was bound to favor the multitude of Spaniards who had gone to the Indies in the hope of some material reward, while the needs of the poverty-stricken Crown could not be lost sight of. It was the attempt of the Crown to fulfil these two contradictory functions that accounts for the mass of groping and seemingly aimless legislation during the first century of Spanish occupation.

The Crown's position was not an enviable one. If the colonists were allowed to use native labor, and there was no other labor to use, it was brought sharply to task by the missionaries. If the missionaries were allowed to have their way and make the native populations entirely free from domination by the Spanish civilian element, the latter faced bankruptcy and the Crown a loss of indispensable revenue. There could be but one outcome. As long as the issue was thus sharply drawn it will be found that in no case did the Crown sacrifice its own interests, which were identical with those of the colonists. It made, indeed, many and sincere efforts to ameliorate the lot of the subject races, and

succeeded in no small degree, but much of the utopian legislation must have been passed merely to appease the clamors of the reformers, as is proved by the fact that everyone from the governors down ignored with impunity every measure that conflicted with the common interests of Crown and colonist.

Columbus returned to Española in 1495 to find that the natives had risen against his lieutenants and that the whole island was in an uproar. His first duty was to establish peace, and so after nine months of campaigning he found the colony again under control and himself with some hundreds of native prisoners on his hands. There was only one thing to do with infidel prisoners of war: they were shipped off to Spain with Antonio de Torres, several shiploads of them, and offered for sale by Juan de Fonseca, Bishop of Burgos and minister in charge of Indian affairs.¹

This ill-considered act of Columbus, coming so soon after his eulogy of the peaceful and generous character of the natives,² caused the first stirrings of conscience in the Catholic monarchs. In their cédula cited above they instructed Fonseca to hold up the sale of the Indians they had ordered him to dispose of until they could get an opinion from theologians and lawyers on the legality of the transaction. They also wanted to find out from the Admiral his exact reasons for taking them captive.

Whatever the decision of the theologians and lawyers was, the Crown made no decision one way or the other. Meanwhile, the fate of these Indians is revealed by an order to Fonseca:

Reverend Father in Christ, Bishop of Badajoz: In order to man certain galleys which the captain of our fleet, Juan de Lezcano, has in our service, we have agreed to send him fifty Indians; wherefore we command you to deliver to the said Juan de Lezcano fifty of the Indians, who are to be

¹ Oviedo, *Historia General*, I, 59-61; Las Casas, *Historia de las Indias*, II, 109-110; Cédula of Isabella to Fonseca, Apr. 16, 1495, in Navarrete, *Viages de Colón*, II, 173.

² Columbus to Luis de Santangel, Treasurer of Aragon, Feb. 15, 1493, in Navarrete, *Viages*, I, 167-174.

from twenty to forty years of age. You will take his receipt for them naming in it all the Indians he receives, with their ages, so that if the said Indians are to be free, the said Lezcano may return those of them *whom he has alive*, and if they are to be kept as slaves, they may be charged against his salary³

Columbus early had the idea of establishing a regular trade in slaves in imitation of the Portuguese. In his frequently quoted memorial written during his second voyage he outlined a complete plan for the capture and sale of the warlike Caribs, who were interfering with the peaceful settlement of the islands. Several useful ends would thus be served: the peaceful natives would be protected from the cannibals; the latter would be turned from their unlovely appetites and made Christians yonder in Castile; their terrible fate would deter other natives from resisting the Spaniards; the Crown could collect revenue from the trade.⁴ Columbus may not have been encouraged in his slaving schemes by his sovereigns, but neither was he forbidden to pursue them, as is indicated in a marginal note to the above letter.

His anticipation of a lucrative trade was like to frustrate his plans for a third voyage. His brother, Bartolomé, the *adelantado*, had dispatched a large number of Indian slaves to Castile by Peralonso Niño, who reached Cadiz late in October, 1496. Upon his arrival, Niño, looking forward to a large return on his cargo, wrote to Columbus and the sovereigns that he was bringing a quantity of gold. Now Ferdinand and Isabella had already granted some six millions of *maravedís* to Columbus to defray the expenses of his voyage, but needing the money very badly to provide for the defense of Perpignan, they used the money for their own purposes, counting on Peralonso's gold to make up the sum for Columbus. Their ire and disappointment were great upon learning of the imposture, "but,"

³ Ferdinand and Isabella to Fonseca, Jan. 13, 1496, in D.I.I., XXXVIII, 352-354. (Italics not in original.)

⁴ Columbus to Ferdinand and Isabella, Jan. 30, 1494, in Navarrete, *Viages*, I, 231-232.

says Las Casas, "the wrath and pain that the Admiral received from the practical joke and folly of the pilot . . . I well believe was greater."⁵

This unpleasant occurrence may have helped to disgust the Queen with the slave trade, but no active measure was taken against it until three years later. The occasion was the arrival of fifteen of the followers of the rebellious Roldán with the slaves they had received in the *asiento* between Columbus and Roldán. Herrera reports that the Queen was very angry with Columbus for daring to give her vassals to anyone, and she forthwith ordered that all those to whom Indians had been given were to return them to Española on pain of death.⁶

Even if true, Isabella's outburst is not to be taken too seriously. The slaves brought back by these fifteen malcontents were as nothing compared with the shiploads that had been coming to Castile for several years back. The difference seems to have been that these were not prisoners of war, and hence had not been legitimately enslaved. The Queen did issue a *cédula* shortly afterward ordering Pedro de Torres to collect all the Indians—presumably the same ones—sent as slaves by Columbus and return them to the Indies.⁷ Three days later Torres reported that of twenty-one, nineteen had been deposited with the *mayordomo* of the Archbishop of Toledo. One of the others had taken sick, while the last, a girl, had elected to remain in Castile.⁷ This straining at gnats on the part of the

⁵ Las Casas, *Historia de la Indias*, II, 180–181. The story is included for its bearing on the Indian slave trade. Las Casas is the only source for it, but it is accepted by that careful historian, Juan Bautista Muñoz. Niño's action was "an imprudence," says Muñoz, "which angered the sovereigns, discredited the colony and injured the Admiral unbelievably." *Historia del Nuevo Mundo*, I, 256.

⁶ Herrera, *Historia General*, I, 256.

⁷ *Cédula* of Ferdinand and Isabella to Pedro de Torres, *continuo* in the royal household, June 20, 1500, and note by J. B. Muñoz, in D.I.I., XXXVII, 430–440. It may be well in passing to remind the reader that although these *cédulas* are signed by both Ferdinand and Isabella, the responsibility was the Queen's alone, as she did not delegate any power over the Indies to him until her death-bed codicil was signed.

Queen is difficult to explain except as jealousy of Columbus' assumption of sovereignty, rather than as belated tenderness toward her Indian subjects.

Consider the case of Cristóbal Guerra. He had been sent by his brother in the expedition of Peralonso Niño to the newly discovered Pearl Coast in 1499. In allowing this expedition, by the way, Isabella was violating her contract with Columbus. Guerra returned with a cargo of slaves in 1501 and sold them in Xerez de la Frontera. Wind of this transaction got round to Court, and a *cédula* was issued to the corregidor of Xerez, ordering the release of the Indians and the arrest of Guerra. The Indians were declared to be free subjects of the Crown, and were not to be enslaved.⁸

A year and a half later, however, Cristóbal Guerra obtained a license to go discovering on the Pearl Coast. One paragraph of his patent leads one to believe that the previous prohibition of slavery was not to be considered as general. The Queen gives Guerra permission:

.... to take Indian men and women for slaves, without harming them, and he is to take them as nearly as possible with their consent; and in the same manner he may take monsters and animals of any kind, and all serpents and fishes he may desire; and all of this is to belong to him, as has been said, the fourth part being reserved for me⁹

The Indian slaves he brought back with him on his previous voyage are to be returned to him for use on the voyage. In case they are free he is not to use force on them. It is to be noted here that the Indians to be enslaved by Guerra were not stipulated as cannibals or rebellious Indians. On the other hand, it is true that the Pearl Coast was inhabited by the Caribs, who could be counted on to resist the invaders.

⁸ *Cédula* of Ferdinand and Isabella to Diego Gómez de Cervantes, Corregidor of Xerez de la Frontera, Dec. 2, 1501, in D.I.I., XXXI, 104-107. For the Guerra expedition (adverse) see Las Casas, *Historia de las Indias*, II, 435-447. There is also something in Oviedo, *Historia General*, I, 76.

⁹ Asiento of the Queen with Cristóbal Guerra, July 12, 1503, in D.I.I., XXXI, 187-193.

Isabella was beginning to see possibilities of revenue in the slave trade. Shortly after issuing the license to Cristóbal Guerra, she issued a general *cédula* to all who should go on expeditions of discovery. In it she declared that, although the capture and enslavement of Indians had been prohibited, yet, since the cannibals had resisted the propagation of the Christian religion, they might be captured and brought to Spain as slaves. The Crown was to receive its proper share of the proceeds of their sale.¹⁰

By this time, however, the slavers had learned that the capture of the warlike Caribs involved great hardship and expense and that they could not make a profit while paying the royal tax of a third—the “proper share” mentioned above. If this was not reduced, they complained, they would have to abandon the business. Isabella, confronted with the double specter of unpunished rebels and profitless subjects, did not hesitate to reduce the duty to a fifth.¹¹

Indian slavery, properly so called, was a passing feature of Spanish colonial life. *Esclavos* were those Indians captured in war or bought from the Indians themselves. As the pacified territory increased, the legitimate supply of slaves rapidly decreased, and eventually slaves could only be acquired by such questionable methods that the scandal of the traffic brought about its abolition, in 1542, although slave taking was allowed thereafter from time to time as a punitive measure against rebellious tribes in specific cases.

Meanwhile, of far greater importance than Indian chattel slavery was the institution of the *encomienda*, which furnished the machinery by which the Spanish colonies obtained their labor supply for two and a half centuries. Its beginnings go back to Española under Columbus.

¹⁰ *Cédula* of Isabella to all captains going to the Indies, August, 1503, in D.I.I., XXXI, 196–200.

¹¹ *Cédula* of Ferdinand and Isabella to Ovando, Governor of Española, Feb. 4, 1504, in D.I.I., XXXI, 214–215.

From the establishment of the first unlucky colony in 1492 to the coming of the royal governor, Ovando, in 1503, conditions in Española can best be described as something near absolute anarchy. The colonists themselves were such as could be attracted by a prospect of sudden riches, gained in a land as remote as the moon is to us now; that is, they were ex-soldiers, broken noblemen, adventurers, criminals, convicts. By all accounts the men who went to Española during those first ten years were the choicest collection of riffraff ever brought together. That there were undoubtedly some noble and high-minded men among them does not appreciably change the aspect of the whole. Such was the reputation given by the disappointed colonists returning to Spain that the greatest difficulty was experienced in recruiting Columbus's third expedition. Criminals of almost every type were given the privilege of working out their sentences by service in the Indies. Sentences of death were commuted into two years' service, while lesser sentences might be removed with one.¹²

Columbus himself looked with disgust upon the unholy lot that went to the Indies. In one of his letters he says, "I make my oath that numbers of men have gone to the Indies who did not deserve water of God or man."¹³

Oviedo gives a lugubrious picture of those early days in Española:

Indeed I saw many of those who at that time returned to Castile with such faces that I think that although the King had given me his Indies, were I to become as they, I should not have determined to go thither And as people were now scarce and did not cease from returning to Spain (save those who could not), the country was almost ruined, and was considered worthless and dangerous by those who remained, and doubtless these would have been lost if they had not been succored by the caravels which came from Spain. The Admiral had sent them from the Canaries with

¹² General cédulas of Ferdinand and Isabella, June 22, 1497, in D.I.I., XXXVIII, 386-391; Navarrete, *Viages*, II, 207, 209, 212; Las Casas, *Historia de las Indias*, II, 131-132.

¹³ Columbus to the nurse of Prince John, 1500, in Navarrete, *Viages*, I, 271.

three hundred more men sentenced or exiled to this island. These . . . together with those few who remained here, saved the land from being abandoned.¹⁴

The ill-assorted and generally unfit group faced many, and some insuperable, difficulties, but their chief torment was hunger. They were caught in a vicious circle. Having infrequent communication with Spain, they forced the natives to supply them with food. The latter, who were living under a primitive hand-to-mouth economy, were in their turn soon reduced to want. It was a round of starvation, oppression of the natives, falling production, more starvation, more oppression. Moldy supplies from Spain eased matters from time to time, but the ultimate extinction of such an ill-ordered republic was certain on the score of food shortage alone. "Nothing in those days," says Las Casas, "gladdened the people here . . . more than to learn that the ships were coming with supplies from Castile, because all their troubles were from hunger . . ."¹⁵

With the necessity of obtaining food went the hardly less pressing urge for gold. In both these quests laborers in large numbers were needed, and the Spanish colonists were not drawn from the laboring classes. Slaves were expensive and not abundant enough for the purpose. A large number of natives was at hand. What race then or now would hesitate under the circumstances? The islanders were forced to serve the Spaniards, not as slaves, indeed—that was illegal—but serve they must. Such were the circumstances out of which grew the much debated *encomienda* system. This at first was probably no more than a subterfuge for the evasion of the law against slavery. It gradually obtained the sanction of custom and the dignity of legality and finally became the instrument—in the following centuries of peace—by which the Indians were in some measure protected and civilized.

¹⁴ Oviedo, *Historia General*, I, 64.

¹⁵ Las Casas, *Historia de las Indias*, II, 134.

The first adumbration of the encomienda was the petition of Columbus to the Crown begging that the colonists be allowed to use the labor of the Indians for a year or two, until the colony should be on its feet.¹⁶ In this he was in all probability seeking the legal recognition of a *fait accompli*, as Ovando did five years later, because the Spaniards could not have lived six months without the forced services of the Indians. In the partition of the lands of the island among the colonists, the cacique and his people resident upon each plot were compelled to work it for the benefit of the Spaniard to whom it was assigned.¹⁷ This was in 1499, but as early as 1494-5, after the great rebellion, the tributes laid on the native towns were in some cases commuted into work.¹⁸

To put an end to the chaos in the Indies Isabella appointed a royal governor, no less a personage than Fray Nicolás de Ovando, Comendador mayor of the military order of Alcántara. His instructions contain the first attempt on the part of the Crown to regulate Spanish-Indian relations.

The Governor is to take great pains in the teaching of the natives in the Holy Catholic Faith, but no violence is to be done them in the process. They are to be lovingly taught by the religious.

He is to see to it that they are allowed to go in entire freedom about the island. No one is to rob them, do violence to them, or any harm whatever.

He is to inform the caciques that it is the will of the monarchs that they be well treated, as good subjects and vassals of the Crown. Any one harming them is to be so punished that no one will dare repeat the offense.

Wives and daughters of the Indians taken from them *against their will* are to be returned. If any Spaniards wish to marry native women it is to be with the consent of both parties and not by force.

The Indians are to pay tribute, like other subjects, according to the value of their land. This is to be brought about after consultation with the caciques, who are to be made to understand that the collection of tribute is no injustice toward them.

¹⁶ Columbus to Isabella, 1498, quoted by Las Casas, *Historia de las Indias*, II, 348.

¹⁷ Herrera, *Historia General*, I, 120; Las Casas, *Historia de las Indias*, II, 348.

¹⁸ Herrera, *Historia General*, I, 111.

"Item: since it will be necessary, in order to mine gold and carry out the other works we have ordered done, to make use of the services of the Indians, you are to compel them to work in our service, paying them the wages you think it just they should have."

The Indians are not to be allowed to bear arms.

Moors, Jews, heretics, *reconciliados*, and New Christians are not to be allowed to go to the Indies. Negro and other slaves born among Christians may be transported to the Indies.¹⁹

The repeated recommendations for racial intermarriage show that the Spaniards were in no hurry to settle down to a humdrum agricultural life. Concubinage was the rule, much to the scandal of the religious element. Women were in great demand. A woman was worth a hundred castellanos, reported Columbus, as much as a farm, and even girls of nine and ten had their price. There was a market for women of every age, and many merchants were making a profitable business trafficking in them.²⁰

Ovando brought a great company with him, some 2500 men, including many noblemen, but few who were in any way fitted to cope with life in the wilderness. They were soon in desperate want. The Indians, seeing the increasing number of their guests, had adopted a unique method of ridding themselves of them by refusing to plant any crops whatever, their own included. Ovando's representations at Court of the frightful conditions prevailing in the colony brought a series of cédulas which definitely recognized the legality of the forced labor of free Indians and attempted to protect them at the same time.

The monarchs had heard that it was necessary for the salvation of the Indians that they be brought together in towns and not be allowed to live separate from the whites. Each Indian was to be given a house of his own for his family and a farm

¹⁹ Instructions of Ferdinand and Isabella to Fray Nicolás de Ovando, Comendador de Lares, Sept. 16, 1501, in D.I.I., XXXI, 13-25. A *reconciliado* was a person who had been condemned by the Inquisition, but who was received again into the Church after doing penance. This same prohibition is encountered with great frequency during the first century of the Spanish occupation.

²⁰ Columbus to the nurse of Prince John, 1500, in Navarrete, *Viages*, I, 271.

for cultivation and cattle-raising. Each town should have a church with a chaplain to instruct the Indians in the Holy Catholic Faith. It was also to have a well-known person to govern it in the royal name, administer justice, prevent any harm from being done the Indians, "and to make the Indians serve in those matters necessary to our service." This officer was to see that the Indians were paid for this service, and that they were not swindled out of their property; that is, the goods given the Indians must be worth at least *half* as much as the goods received.

The Indians were to be persuaded to go about dressed, like "reasonable men." The children of each town were to be brought together twice each day for instruction in matters of faith, in reading, writing, making the sign of the cross, following the confession, the *Pater Noster*, the *Credo*, and the *Salve Regina*. They were to be baptized and forced to attend church.

The caciques were not to be allowed to mistreat or oppress their followers *against their will*, "in as much as it is our will that the said Indians be in everything well taught and well treated, as our vassals, provided that this be done in such a fashion as not to mistreat the caciques."

The Indians were to be persuaded to abandon their ancient evil ways, "and they are not to bathe as frequently as hitherto, as we are informed that it does them much harm."

The Spanish colonists were to be induced to marry native women, and the Indians to marry Spanish women, so that the Indians might be instructed in the Holy Catholic Faith and become civilized men and women.

And since we are informed that in order to get greater profit from the said gold, it is necessary for the Christians of the island to make use of the Indians, we command the Governor to discover what procedure should be observed in it provided that the Indians be not mistreated as they have been hitherto; and they are to be paid wages and they are to be so used with their consent and not otherwise ²¹

²¹ Instructions of Ferdinand and Isabella to Ovando, Mar. 29, 1503, in D.I.I., XXXI, 156-174.

The generally humane tone of these instructions is somewhat marred by a secret note of the same date. The Governor is to place the Indian town provided for above as near the mines as possible, "porque faya lugar de coger mas"—so that more gold might be mined. And while the Indians might resist this new mode of life because of its strangeness, they were to be persuaded to accept it, with the use of as little force as possible.²²

There is nothing specific in Ovando's instructions compelling the natives to work for individual Spaniards in agricultural pursuits. There was no revenue for the Crown in such an humble calling. But Ovando was confronted with the absolute necessity of feeding his people. Much scorn has been heaped upon the Spaniards for neglecting the most obvious remedy, that of tilling the soil with their own hands. In the first place, the tradition of such men as made up the Spanish population of the island was that agriculture was a demeaning occupation, and in the second, white men, then or now, do not willingly perform manual labor in the tropics. Wherever justice lay, Ovando succeeded in convincing the Court of the necessity of using native labor in the fields, and obtained a *cédula* that became the basis of the *encomienda* system. Since Ovando was a high officer in the order of Alcántara, it was most natural for him to think of applying to the Indies a system analogous to that used by Ferdinand and Isabella in the apportionment of the Moorish lands of Granada. The *cédula* itself states the theory of the system which was to persist, with many modifications, for two and a half centuries:

Medina del Campo, Dec. 20, 1503. Isabella, by the Grace of God, Queen of Castile, etc. In as much as the King, my Lord, and I, in the instruction we commanded given to Don Fray Nicolás de Ovando, Comendador mayor of Alcántara, at the time when he went to the islands and mainland of the

²² Secret instruction of Ferdinand and Isabella to Ovando, Mar. 29, 1503, in D.I.I., XXXI, 174-179. Herrera states that the Queen, in Ovando's instructions, commanded that the Indians of Española were to be free of servitude. Such a clause is not to be found. This is an early instance of the Isabella legend (Herrera, *Historia General*, I, 149).

Ocean Sea, decreed that the Indian inhabitants and residents of the island of Española, are free and not subject . . . and as now we are informed that because of the excessive liberty enjoyed by the said Indians they avoid contact and community with the Spaniards to such an extent that they will not even work for wages, but wander about idle, and cannot be had by the Christians to convert to the Holy Catholic Faith; and in order that the Christians of the said island . . . may not lack people to work their holdings for their maintenance, and may be able to take out what gold there is on the island . . . and because we desire that the said Indians be converted to our Holy Catholic Faith and taught in its doctrines; and because this can better be done by having the Indians living in community with the Christians of the island, and by having them go among them and associate with them, by which means they will help each other to cultivate and settle and increase the fruits of the island and take the gold which may be there and bring profit to my kingdom and subjects:

I have commanded this my letter to be issued on the matter, in which I command you, our said Governor, that beginning from the day you receive my letter you will compel and force the said Indians to associate with the Christians of the island and to work on their buildings, and to gather and mine the gold and other metals, and to till the fields and produce food for the Christian inhabitants and dwellers of the said island; and you are to have each one paid on the day he works the wage and maintenance which you think he should have . . . and you are to order each cacique to take charge of a certain number of the said Indians so that you may make them work wherever necessary, and so that on feast days and such days as you think proper they may be gathered together to hear and be taught in matters of the Faith . . . This the Indians shall perform as free people, which they are, and not as slaves. And see to it that the said Indians are well treated, those who become Christians better than the others, and do not consent or allow that any person do them any harm or oppress them . . .

I, the Queen.²³

This famous piece of sophistry clearly legalized forced labor, as it was intended to do. Yet it was the first bit of realistic and constructive legislation on the Indian question. By its recognition of the *fait accompli* of Indian bondage, it fixed the status of the "free" native and tended to stabilize Spanish-Indian relations. It formed the base upon which the Indian code was built and eventually curbed the uncontrolled and irresponsible exploitation which completely depopulated Española. The system which

²³ Cédula of Isabella to Ovando, Dec. 20, 1503, in D.I.I., XXXI, 209-212.

grew out of this act of Isabella, while shocking to modern nerves, was in theory no more oppressive than the prevailing system in Europe. In practice it was much more brutal, as there was no common bond of sympathy between master and serf. They were of different races, different languages, different religions. In view of all these difficulties, it is remarkable that any good at all came from the encomienda. Oddly enough, it worked, in the main. The Indian *was* Christianized, more or less; he *was* protected eventually from unbearable oppression, and he *did* manage to persist in all the continental Spanish colonies.

Isabella died on November 26, 1504. On her death-bed she dictated a codicil to her will, appointing Ferdinand regent of the Indies and leaving certain pious instructions for the treatment of the Indies. About this death-bed utterance of Isabella there grew up a legend of far-sighted humanitarianism that bids fair to bring about her canonization in time. It will be interesting to examine it.

Item, whereas, when the islands and mainland of the Ocean Sea were conceded to us by the Holy Apostolic See, our principal intention when we begged the said concession of Pope Alexander VI of blessed memory was to procure, induce, bring and convert their peoples to our Holy Catholic Faith, and to send to the said islands and mainland, bishops, religious, clerics and other learned and God-fearing persons, to instruct the inhabitants and dwellers therein in the Catholic Faith, and to instruct them in, and bestow upon them, good customs, and to put in it the proper diligence, as in the said concession is more fully explained: therefore I beg the King, my Lord, very affectionately, and I charge and command my said daughter and the said prince her husband to carry this out, and that this be their principal purpose, and that they put in it much diligence; and they are not to consent, or give permission, that the Indian inhabitants and dwellers of the said islands and mainland receive any damage in their persons or goods, but they are to order that they be well and justly treated; and if they have received any damage they are to remedy it, and so provide that they do not exceed in anything that which is enjoined and commanded us in the said concession.²⁴

²⁴ *Recopilación de leyes de Indias*, II, 234.

Not a word is to be found here about the abolition of slavery, the suppression of forced labor, or anything that definitely restricts the exploitation of the natives. How can Isabella be set up as the possible emancipator of the Indians in this world, when her only regard is for their fate in the next? "Could the poor Indians," exclaims Sir Arthur Helps, "but have known what a friend to them was dying, one continued wail would have gone up to heaven from Hispaniola and all the western islands."²⁵

Isabella was an eminently practical, as well as a pious, woman. Her consent to the establishment of the *encomienda* in the New World proves that. If the *encomienda* had not been economically sound it could hardly have endured for two and a half centuries. It is also difficult to avoid the conclusion that Isabella licensed and even encouraged Indian slavery, and profited by it. With a stroke of the pen she could have suppressed the traffic at any time. There is little likelihood that such a thought ever occurred to her. She acted in consonance with the practices of her day. She belonged to the Middle Ages. The soul was still the important matter. Provided that the soul was saved, the fate of the body was of little consequence, and it might as well be turned to some account by those who had been instrumental in saving the better part—and who needed the money very badly.

²⁵ Helps, *Spanish conquest*, I, 150. In a more sustained measure the Mexican historian, Riva Palacio, sings her praises. One sentence will do: "Without the unbreakable energy of Isabella the Catholic, and without that gesture of noble and Christian magnanimity, without the sweet affection which she professed for those who were then called Indians, and without the powerful influence which her example exercised over all the monarchs who succeeded her, the market places of Europe, Asia, Africa and America would have been filled to overflowing with slaves brought from Mexico and Peru" (*México a través de los siglos*, II, vii). Instances could be multiplied.

CHAPTER III

THE REGENCY OF FERDINAND

The first seven years of Ferdinand's rule in the Indies—including the year of his joint regency with Philip I—were a dismal and sordid time for natives and colonists. Without the piety of Isabella to modify the dictates of necessity, the Indian policy of the Spanish Crown was simplicity itself: get money, by fair means if possible, but get it! In the royal orders the conversion of the Indians was usually mentioned as a matter of form, but with much less emphasis than under Isabella. On the other hand, no end of instructions were showered on the governors in the more urgent business of increasing the revenue. Under Ovando and Isabella the *encomienda* had become the established manner of dealing with peaceful natives, and Ovando, an able and conscientious officer, was to administer it for five years longer. Had this not been the case, it is quite possible that if left to Ferdinand the whole American race would have become chattel slaves.

In the colonization of Porto Rico the precedents recently created in Española were followed. In April, 1505, Vicente Yáñez Pinzón was given a patent to "discover" that island. The land and the natives were to be apportioned among the settlers as in Española. The colonists were to contract to remain there for five years. The title to the land was to remain in the Crown, one-fifth of all profits were to accrue to the Crown, etc. There is no mention of conversion of the natives. No nonsense about Ferdinand!¹

The following November Ferdinand wrote to Ovando approving the apportionment of the natives of Española. Next he

¹ Asiento of Ferdinand with Vicente Yáñez Pinzón, Apr. 24, 1505, in D.L.I., XXXI, 309-317.

named the places where slaves might be taken, that is, wherever the natives resisted the Spaniards. On this occasion he was concerned with the Caribs of the lesser Antilles and the Pearl Coast. Then the politic monarch took up the delicate matter of sex relationship between Indians and Spaniards:

As to what you say of the punishment of the Indian women who wrong their husbands, it is my opinion that you should not proceed too rigorously against them, especially if their husbands do not accuse them, because much trouble would come of it, . . . but you should warn the Christians not to have anything to do with them, or you might even punish them [the Christians] but in such wise that it come not to the notice of the husbands, as in that case it would cause a great scandal.²

The early plan of wholesale racial intermarriages for the correction of such conditions and the maintenance of the population had had very slender results.³ The practical Ovando partly solved this problem by sending home the men who had wives in Spain, with instructions to bring their women back with them. This must have been a costly business, but it cost Ferdinand nothing, and he gave it his approval.⁴

² Ferdinand to Ovando, Nov. 15, 1505, in D.I.U., V, 110-113.

³ This is contrary to the accepted belief. "The marriage of Spaniards with Indian women," says Serrano y Sanz, referring to this period, "was a very general fact" (*Orígenes*, 384). He quotes a typical passage from Las Casas to support his statement: "There was, and I saw it myself, a village or town called Vera Paz, of 60 Spanish inhabitants, most of them hidalgos, married to the native women of that land" (*Apologética Historia*, chap. xxxiv). Serrano y Sanz also quotes the report of Rodrigo de Alburquerque, who made the redistribution of the Indians in 1514, showing that encomiendas were given to 60 Spaniards with native wives. An analysis of Alburquerque's report shows that he distributed 692 repartimientos among the Spaniards. Of these 63 were made to Spaniards with native wives, 19 to women, and the remaining 475 to single men. That is, out of 673 possibilities, there were 63 mixed marriages, or less than 10 per cent. This, too, after twenty years of Spanish occupation. As for Las Casas' 60 hidalgos, every Spaniard landing in the Indies considered himself *ipso facto* an hidalgo. The impartial Manzanedo, writing in 1518, says, "many of those married to cacicas . . . are persons of little esteem and consequence" (Serrano y Sanz, *Orígenes*, Appendix, 569). And as for Las Casas' town of Vera Paz and its 60 hidalgos, Alburquerque's report gives a total of 48 repartimientos, of which 6 were to Spaniards with native wives, which is probably much nearer to the truth.

⁴ Cédula of Ferdinand to Ovando, Feb. 8, 1505, in D.I.U., V, 67-70.

Ovando was allowed to govern the island for the next four years with little interference from the Crown. The few documents available for the period up to the arrival of Diego Columbus as governor in 1509 do not indicate any amelioration in the general condition of the island. It had been pacified quite thoroughly by the stern *Comendador*, but continual starvation was the lot of the settlers, while that of the natives must have been much worse. Ovando protested against the sending of more colonists, and drew an angry expostulation from his sovereign:

I should like to know why you request that no more people, even workmen, be allowed to go there until you ask for them. Here it is believed that the more there are to work the greater will be the profit.⁵

It is easy to see where Ferdinand was being pinched, but his ignorance of conditions in the Indies after fifteen years is more difficult to account for.

Affairs had come to such a pass by this time that Ovando felt compelled to send two delegates to Court to place the desperate situation of the colony before the King. These two, Antón Serrano and Diego de Nicuesa, reported that the Indians were rapidly disappearing and that Ovando recommended bringing Indians from the near-by "useless" islands, that is, islands where no gold was to be found. Those Indians would then have the opportunity of living in contact with the Christians and would be converted, for the glory of God and the salvation of their own souls.

This pious suggestion appealed strongly to Ferdinand, especially since gold mining was in danger of being discontinued because of shortage of labor. So he readily granted permission to bring this new raw material for Christians to Española, but it was to be done with "as little scandal as possible," and these new Indians were not to be made slaves, or used as such, but were to be paid wages and given the necessities of life, just as

⁵ Ferdinand to Ovando, Oct. 21, 1507, in D.I.U., V, 117-120.

was being done with the natives of Española—which bit of irony should give Ferdinand a place among the great humorists of his country.

The slave population had developed the disagreeable habit, reported the delegates, of running off and taking refuge among the peaceful tribes, whence it was impossible to recover them without doing some violence to those tribes and running counter to the law which protected them. Ferdinand saw no difficulty in giving the colonists the right to recover their slaves wherever they might be found. It seems not to have occurred to him that the colonists, to whom all Indians looked alike, would seize some of the peaceful natives by way of compensation.

The King had given grants of land and Indians to people at Court, and this, complained Ovando, worked great hardship on the Spaniards of Española, because there were not enough Indians to go round. For reasons of his own, Ferdinand gave an evasive answer to this complaint, assuring the delegates that in the future due regard would be had for the interests of the island and its inhabitants.⁶

Ovando's delegates complained that the natives were being corrupted by the teachings of rascally Jews, Moors, and *recon-ciliados*, and petitioned that they should be forbidden to enter the island up to the fourth generation. The King instructed the Casa de Contratación to prohibit their passage.

The delegates also petitioned the King not to give Indians to the prelates and priests sent to the island. Ferdinand was indignant. Were prelates and priests less than other men? Certainly not! They were not of less consequence, but more, than other citizens, and must have Indians to work their farms. Ferdinand might have added that this would simplify the matter

⁶ In the report of the *juez repartidor*, Rodrigo de Alburquerque, cited above, the King was given 1430 Indians, while other members of the Court received 3720. The evil of absentee ownership of *encomiendas* was fought by colonists and missionaries alike, and was not definitely outlawed until the New Laws of 1542.

of their remuneration, for otherwise they would have to be supported by the Crown.

Spanish workmen, complained the delegates, going to the island, all became *hidalgos* the moment they landed, and refused to follow their old trades, but wished to set up as proprietors with encomiendas of Indians. Ferdinand decreed that they should not be given Indians unless they worked at their trades.⁷

It will be seen with increasing clarity that for Ferdinand the Indies did not exist except as a source of revenue. Civil rights of the Indian population were ignored on every occasion where the interest of the Crown was involved. One of Ovando's delegates, Diego de Nicuesa, received a patent with Alonso de Ojeda to "discover" the land of Urabá and Veragua. Ferdinand instructed them to take forty Indians from Española experienced in gold mining, so that they might teach that art to the natives of the mainland.⁸

Meanwhile Ovando reported that the people—presumably the natives—of Española were very happy. This is rather astonishing in view of the dismal story of the two delegates, but there it is! The reply is typical of Ferdinand:

I am pleased to learn that the people are contented; and thus you are to provide that they be well treated always. Our officials in Seville have not as yet sent me the pearls. When I see them I shall let you know my opinion.⁹

His last communication to the Governor approved the scheme for bringing Indians from the "useless" islands to Española, "for everyone tells me that there are very few Indians in Española." He was disappointed with the pearls, but even though they were not of very high quality, Ovando should send him all that had been found. The bad weather, he had heard,

⁷ Cédula of Ferdinand to Ovando, Apr. 30, 1508, in D.I.I., XXXII, 5-24, and D.I.U., V, 125-145.

⁸ Asiento of Ferdinand with Diego de Nicuesa, June 9, 1508, in D.I.I., XXXII, 29-43.

⁹ Ferdinand to Ovando, July 8, 1508, in D.I.U., V, 148-155.

had been interfering with gold mining, but now, by the grace of God, they were going to have good weather, and Ovando was to put all the men possible at work in the mines. He was also to see that they were fed, somehow.¹⁰

For the past ten years the Columbus family had never ceased fighting for their claim to all the land discovered by Christopher. After the Admiral's death in 1506, their fortunes brightened considerably with the marriage of his son, Diego, to Doña María de Toledo, niece of the Duke of Alva and grandniece of Ferdinand himself. Thus by a rare combination of justice and influence Diego was appointed Admiral and Governor of the Indies.¹¹ He assumed his duties in Española in 1509.

His instructions begin with the usual meaningless protestations about the Indians. Ferdinand's desire was, and always had been, that the natives should be converted to the Holy Catholic Faith. Their conversion was to be undertaken by the clergy as well as by those who held the Indians in *encomienda*. They were to be taught lovingly and in no wise by force, etc.

The question of the right of inheritance of the *encomienda*, a question which was to keep the *encomenderos* in a ferment for many years, had been brought to Ferdinand's attention. The *encomenderos* had persisted in the attitude that their grants belonged to them and might be given in inheritance to their wives and children. They were to be informed that no such right existed.

Only a year before, Ferdinand had become indignant at the notion of depriving the clergy of the right to use the services of the natives. Now he found that they had been neglecting their divine offices for the sake of profiting by the Indians. Thenceforth they were forbidden to use them. If one may venture a guess here, Ferdinand was less concerned over their neglect of

¹⁰ Cédula of Ferdinand to Ovando, May 3, 1509, in D.I.I., XXXI, 424-431.

¹¹ General cédula of Ferdinand, Oct. 21, 1508, in D.I.I., XXXII, 55-59.

their spiritual duties than over the fact that the Indians could be employed much more profitably in the royal mines than on the priestly estates.¹²

Isabella had been content with a moderate profit from the slave trade, and had even protected the infant industry by reducing the tax from a third to a fifth. This encouragement of private enterprise may have helped the struggling kidnapers, but such was their ingratitude that they turned round and charged the King an excessive price for the slaves they sold him. But Ferdinand was the last person in the world to suffer such an affront, and their greed was punished forthwith.

A certain Gil González, it seems, had written the King, offering to bring Indians from the useless islands at a lower price than had been charged before. Ferdinand wrote Diego Columbus to come to terms with González. He might even offer him and his associates a fourth of the Indians that they kidnaped as their compensation, *the remaining three-fourths being for the King*. Moreover, since it might happen that these green Indians would not be so good at mining as the more experienced natives of Española, Diego was to give them to the encomenderos in exchange for their old Indians, and these latter were to be sent to the mines. The civil status of the new Indians was a problem. Ferdinand hinted that it might simplify matters if some pretext were found for making them slaves:

And if by chance they do anything that may merit their being made slaves, I think it will be better to sell them, if anyone can be found to give a fair price for them, since in that case as many of the natives of the island can be taken for our service as are necessary.¹³

¹² Instructions of Ferdinand to Diego Columbus, May 3, 1509, in D.I.I., XXXI, 388-409. In Albuquerque's report of the reapportionment of 1514, out of the 27,000 Indians allotted, 112 only were given to churches, hospitals, monasteries and the clergy (D.I.I., I, 50-236).

¹³ These wretches brought in from the Bahamas were not made slaves, but *naborías perpetuas*. The Indians of Española were simple *naborías*, that is, servants giving approximately two-thirds of their time to their masters, being allowed the remaining third to cultivate their own lands. The new Indians, having no lands to cultivate, naturally had no need of time for themselves, and so were forced to serve their masters *perpetually*, hence the name.

The Governor was again warned that the assignment of the *encomienda* to the colonists was not for life, but for two or three years at most, with a possible privilege of renewal for a like period. The Indians given in *encomienda* were not to be considered as slaves, but as *naborías*. Ferdinand felt that it would be a burden on his conscience to give these people in servitude for life.¹⁴

With the foregoing was dispatched another *cédula* which regulated and equalized the distribution of Indians in the *encomiendas*. The first distribution had not been made equitably, some having got many Indians, some few, and some none at all. Royal officers and *alcaldes* were to have one hundred each; the married *hidalgo* who should bring his wife from Spain was to have eighty; the squire was to have sixty; the simple farmer thirty. Any excess or deficit of natives was to be divided among the colonists in the same proportion.

The colonists were to pay the Crown a gold peso a head per annum for all the Indians in their service. They were to be held responsible for the instruction of such Indians in matters of religion.¹⁵

This is one of the many instances where the Spanish Crown, by abrupt and unconsidered measures, disarranged the economic life of the colony. This order for redistribution brought consternation to Española, as well it might. The waste and confusion attendant upon such a revolution in a wilderness 30,000 square miles in extent was not brought to Ferdinand's attention until the following November. Thereupon he canceled the order for the redistribution; everything was to remain as before. The reason was characteristic: the time lost in redistributing the Indians would be taken away from gold mining. The present holders were to keep their Indians, paying their gold peso a

¹⁴ *Cédula* of Ferdinand to Diego Columbus, Aug. 14, 1509, in D.I.I., XXXI, 436-439.

¹⁵ *Cédula* of Ferdinand to Diego Columbus, Aug. 14, 1509, in D.I.I., XXXI, 449-452.

head per annum as prescribed. If any deserving citizens were without Indians, they might be supplied from the new Indians brought in from the useless islands.

A number of Spaniards were to be given licenses to bring in these useless Indians. They might keep one-half of those they brought, paying the Crown a half-peso apiece for them. The other half was reserved for the Crown. This expedient was necessary to relieve the labor shortage,

. . . . for, as you know, the greatest need of the island at present is more Indians, so that those who go there from these kingdoms to mine gold may have Indians to mine it with. You can imagine the profit that is being lost.¹⁶

The colonists needed no encouragement in kidnaping. The Bahamas were rapidly depopulated, and, when that supply of labor became exhausted, they seized Indians wherever found and transported them to Española. Many of the exploring expeditions were made with this end principally in view. The discovery of Yucatan and Mexico was made by slaving expeditions.¹⁷ Twenty years later we shall find complaints being made against Nuño de Guzmán for shipping Indians to Española from his province of Pánuco.

The decree that mechanics were to work at their trades was difficult of enforcement. Ferdinand had to repeat his order—indeed, it was repeated many times during the colonial period, with noticeably little effect. What was more to the point, however, wrote Ferdinand, was that the Spaniards were not putting all the diligence into gold mining that they should. In the first twenty days and the last twelve or fifteen of the semi-annual periods between meltings they took out as much gold as during all the rest of the period. The King's remedy for this undesirable situation was to shorten the periods between meltings to

¹⁶ Cédula of Ferdinand to Diego Columbus, Nov. 12, 1509, in D.I.I., XXXI, 470-476.

¹⁷ Cortés, *Cartas*, 2.

four months. The very Indians, Ferdinand had learned, following the example of their Spanish foremen, were in the habit of idling after doing what they considered a just day's work!

Another matter that grieved the King was the division of the lands among the colonists without due regard for differences in social category, the common herd receiving in some cases as much as those of nobler breed. The Governor was to distribute the lands according to the rank of the claimants.

In view of the damage done by the hurricane of 1508, Ferdinand was relieving them of the peso tax for the first year, and was removing the half-peso tax on kidnaped Indians at the same time, "because some of the Indians brought from other islands die, while others become ill."¹⁸

On the same day Ferdinand wrote to his Treasurer-General of the Indies, Miguel de Pasamonte, complaining that mines in the hands of private parties produced more gold than the King's own. How could that be, his being the better?¹⁹

All the Governor's efforts to appease his chief's appetite for gold were too little. In February Ferdinand wrote thanking him for his diligence in working the mines, but for the present he was to keep a thousand men continually at work there, and later he was to put all the men in the mines that could be supported.²⁰

The project of forcing the Indians to live together in towns—which were to be as near the mines as possible—was not going very well. Ferdinand wrote Diego during the summer to proceed in this matter with great caution, as the Indians showed an unaccountable aversion to being moved, and many might die in the process, "and a great deal of time for gold mining would be lost."

¹⁸ Cédula of Ferdinand to Diego Columbus, Nov. 14, 1509, in D.I.I., XXXI, 487, 505.

¹⁹ Ferdinand to Pasamonte, Nov. 14, 1509, in D.I.I., XXXI, 513.

²⁰ Cédula of Ferdinand to Diego Columbus and royal officers, Feb. 28, 1510, in D.I.U., V, 200-205.

If there were not enough Indians to keep up the quota of a thousand at the mines, a sufficient number was to be taken from the encomenderos to make it up, that is, from the less deserving encomenderos. And since the Lord had given such a generous sign of His approval of the deeds of the Spaniards in allowing the discovery of gold, it might be well to see that the Indians at the mines were well provided for.

The cancellation of the order for redistribution of the Indians was not to affect the royal officers. On the contrary, they were to have two hundred Indians instead of the hundred originally assigned to them, because one hundred were too few for their proper support.

The Governor had suggested that there were many Indians on the island of Trinidad whose souls were going to perdition, but Ferdinand had heard that there was gold in Trinidad; moreover, if those Indians were stirred up they might interfere with the pearl fisheries.

As a special favor to his people of Española, Ferdinand would allow them to bring Indians from the useless islands by paying a duty of a fifth, instead of the former four-fifths. The inhabitants of Cuba and Jamaica were not to be molested, as the islands to the north were of less value.²¹

Ferdinand's exhortations on mining must have had some effect, as a year later he wrote congratulating Diego upon the excellent results of the last melting. Encouraged by this, he ordered Diego to keep thereafter a third of *all* the Indians in the island at work in the mines. He was to appoint inspectors to go about the settlements to see that this provision was carried out.

Diego had suggested that those caciques whose followers had been reduced to less than forty should themselves be obliged to serve as *naborías*. This met Ferdinand's approval, but, first, Diego was to make a complete census of the island: a list of all

²¹ Cédula of Ferdinand to Diego Columbus and officers, June 15, 1510, in D.I.I., XXXII, 79-95, and D.I.U., V, 227-241.

the caciques with their followers; the number and quality of the Spanish colonists, with or without encomiendas, rated according to their treatment of the Indians.

Diego had again suggested the bringing of Indians from Trinidad. Ferdinand had forbidden this, but if it had been learned that there was no gold there, and that the Pearl Coast Indians would not rebel, Diego might have them brought to Española, always provided that this was done without hardship or danger to the Indians.

The King had learned that the kidnaping expeditions to the Bahamas were not being conducted in the most efficient manner, and that transportation and starvation had caused a great mortality among the Indians of those islands, so much so that Ferdinand thought it "somewhat burdensome to the conscience and not very profitable for business."

He punctuated this sentiment by a renewed appeal to Diego to put as many Indians as possible in the mines. He might also gather up the idle Spaniards and put them to work in the mines or on the plantations.

The governor of Jamaica had reported that the natives of that island were submitting readily to Christianity. This was excellent, wrote Ferdinand to Diego, and he hoped that the Jamaicans would be better treated than the Indians of Española, "so that they might increase and multiply."²²

The order that a third of all the Indians in the island were to be kept in the mines may have been objected to by the Governor, because the King had already written his treasurer that no one was to be excused from this rule. Pasamonte was to put a third of the royal Indians in the mines so that the Governor would have no excuse for withholding his.²³

²² Cédula of Ferdinand to Diego Columbus, June 21, 1511, in D.I.U., V, 266-267.

²³ Cédula of Ferdinand to Miguel de Pasamonte, June 6, 1511, in D.I.I., XXXII, 153-163.

The Governor was warned that Spaniards were not to be allowed to bring Indian slaves to Spain, because, "as you know, all the good of those parts lies in there being a number of natives to work in the mines and on plantations."²⁴

At this time the royal correspondence first takes up the question of the abuse of carriers, a controversy which was to rage for many years. Ferdinand had learned that excessive loading had been one cause of the diminution of the Indians and of their unwillingness to go to the mines, "which has been displeasing to Our Lord, and damaging to our rents . . . , and since it is a cruel thing and one which causes the Indians to leave the island . . . I command that no Indians are to be used as carriers by the persons who have them."²⁵ The use of native carriers was abolished, reestablished, regulated, reabolished, and persists today.

Our Lord, wrote Ferdinand the next day, was well served in the bringing of the Indians from the useless islands to those where gold is. It was such a great service to the Lord, and labor was getting so scarce, that he now abolished even the duty of a fifth on kidnaped Indians for the present.²⁶

Despite the forced recruiting from neighboring islands, the depopulation of Española continued at an alarming rate. The King wrote the Governor that he was going to urge the Casa de Contratación to send Spanish workmen to Española. He would try and get Basques from Guipúzcoa, "where there are many people and little to support them." Meanwhile, those bringing Indians from other islands to Española were to be more careful, as the Indians received much harm in the passage and some died of starvation.²⁷

²⁴ Ferdinand to Diego Columbus, June 21, 1511, in D.I.U., V, 266.

²⁵ Cédula of Ferdinand to Diego Columbus, June 21, 1511, in D.I.U., V, 267-269.

²⁶ General cédula of Ferdinand, June 22, 1511, in D.I.U., V, 262.

²⁷ Cédula of Ferdinand to Diego Columbus and royal officers, June 25, 1511, in D.I.U., XXXII, 185-198.

Ferdinand even sacrificed his fifth on slaves in order to save the labor situation. In July he issued a general permission for anyone to take slaves among the Caribs of the mainland and certain of the Lesser Antilles, as they had treacherously slain several Christians of those parts. The only restriction was that they were not to be removed from the Indies.²⁸

These seven years of Ferdinand's unrestricted exploitation of the Indies were such a hideous time that it would require a Las Casas or a Sir Arthur Helps to do justice to its description. It will not be attempted here. This is the end of the worst period in all the history of Spanish colonization. It has only one bright spot: the germ of order and future adjustment between conqueror and conquered was born with the encomienda of Nicolás de Ovando.

²⁸ General cédula of Ferdinand, July 3, 1511, in D.I.U., V, 258-262.

CHAPTER IV

THE LAWS OF BURGOS

The first twenty years of the Spanish occupation of Española were disastrous. Columbus' dream of a land of gold and a lucrative slave trade had come to nothing, and in its stead the deluded "conquerors" had found poverty, hunger, and death on every hand. This had become so apparent that the colony was on the verge of abandonment. Alburquerque's report of 1514, made before the great migration to the mainland, gives a Spanish population of perhaps a thousand, while the hundreds of thousands of the native population had dwindled to 29,000. The destruction was on too vast a scale not to excite some attention. Already toward 1511 plans had been undertaken to save the wretched remainder from a like fate.

The passive attitude of the secular clergy of the island in the face of this cataclysm is difficult to account for, but much more so is that of the Franciscan missionaries who had come over in 1502. Records of those early years are too scanty in this respect to justify the usual condemnation of these men, but they did seem to accept the affliction of the natives as a visitation of the divine wrath upon that wicked race, and did little that we know of to check their extinction.¹ Competition was soon to stir them to more effective efforts.

A large part of the evil done in the Indies is usually ascribed to the interested indifference of the Bishop of Burgos, Juan de Fonseca.² He was clearly not much concerned over the spiritual

¹ Las Casas, *Historia de las Indias*, III, 372. Oviedo attributes their destruction partly to their sins: "And added to this . . . were the great, hideous and enormous sins and abominations of this savage and bestial people" (*Historia General*, I, 72).

² Fonseca was Las Casas' *bête noire*, and is consequently given a great deal of space in the *Historia de las Indias*, for he opposed all of Las Casas'

state of the natives of Española. On the other hand, he did not interfere with the movement for their amelioration which began in 1510-11.

Moved by the tales of spoliation, Domingo de Mendoza, Cardinal Archbishop of Seville and president of the Council of the Indies, sent to Española a certain Pedro de Córdova and a company of Dominican monks. These pious and excellent men, although their arrival was too late to stay the destruction of the remnant of the islanders, became, by their vigorous and unrelenting protests, the chief instrument in mitigating the laws dealing with the Indians, and thus determined to a considerable extent the fate of the mainland tribes.³

The newly arrived Dominicans were shocked beyond measure by the callousness of the colonists toward the natives. Their horror may well have been given an edge by the long silence of the Franciscans in the face of such wickedness. However that may be, with great courage and pertinacity they began their attack on the terrific abuses practiced against the Indians, and in a short time had stirred up so much trouble that the colonists were forced to organize to protect their interests. They persuaded a Franciscan friar, one Alonso de Espinal, to present their case at Court, while the Dominican friars sent their ablest preacher, Antonio de Montesino, to oppose him. A highly novelesque account of the encounter of these two friars at Court and the submission of Espinal to Montesino's arguments, is given in great detail by Las Casas⁴ and need not be repeated here. Montesino eventually gained an audience with Ferdinand and did such a tale unfold that the worthy monarch was greatly

pet schemes for the redemption of the New World. Las Casas is followed by most of the modern historians for the character of Fonseca. Bourne opposes the general view (*Spain in America*, 221-222).

³ Herrera, *Historia General*, I, 244-245.

⁴ Las Casas, *Historia de las Indias*, III, 361-453. Helps, as usual, has followed Las Casas (*Spanish Conquest*, I, 175-192).

upset at the result of his exploitation of the natives.⁵ He pleaded an absolute ignorance of conditions and called a *junta* of learned men to suggest a remedy for the situation. The deliberations of this body resulted in the framing of a complete code of laws for the treatment of the Indians, called thereafter the "Laws of Burgos." These laws were promulgated December 27, 1512, with a supplement added July 28, 1513. The preamble shows that although Montesino may have convinced Espinal of the wickedness of the Spanish colonists, he came far from doing the same with the framers of the laws.

The natives, says the preamble, are by nature inclined to idleness and vice, and not to the learning of the Christian virtues. The greatest impediment in the way of their redemption lies in their having their dwellings so far removed from those of the Christians, for which reason they cannot learn Christian habits and doctrines, whereas, if they were gathered into villages where they might continually observe the practices of the Christians and be kept from their crowning vice of idleness, they might be redeemed from their wicked ways.⁶

From these premises the junta drew up thirty-two articles which became the fundamental law governing Spanish Indian relations for the next generation. To an observer of the twentieth century they seem, in their practicable measures, a cold-blooded sanctioning of existing conditions. In many respects, however, they were a long step in advance over the preceding unregulated and irresponsible exploitation of the Indians, just as the encomienda of Ovando was an improvement over the uncontrolled chaos of 1503. The thirty-two articles will be examined below.

1. The Indians were to be brought together in villages near the dwellings of the Spaniards. Their encomenderos were to

⁵ He was not so stricken with remorse as to refuse to accept the 1400-odd Indians given him in encomienda two years later at the redistribution of Rodrigo de Alburquerque (Repartimiento of Rodrigo de Alburquerque, 1514, in D.I.I., I, 50-236).

⁶ Las Casas, *Historia de las Indias*, III, 418-420.

build houses for them, and *burn their old ones*, so that the Indians might the sooner lose their affection for them.

2. In their removal no violence was to be done them, but they were to be treated with much gentleness.

3. In each of these villages the encomenderos were to build a straw hut to serve as a church, with a bell to call the Indians to prayer every morning and evening. They were to be taught the *Pater Noster*, the *Credo*, and the *Salve Regina*.

4. Encomenderos having fifty Indians or over were to choose the ablest of their boys to be trained as teachers.

5. Sick Indians were to be made to confess, if they were able; otherwise they were to be taught the *Credo* and other prayers, and were not to be charged anything for it.

6. Whenever an Indian died the other members of his village were to be obliged to attend the funeral, bearing a cross.

7. Indian children were to be baptized within eight days after their birth.

8. The children of thirteen and under of the caciques were to be put in charge of the Franciscans and taught religion, reading and writing, and at the end of four years were to be returned to their encomenderos.⁷

9. Indians brought from other islands were to be treated in the same manner as those of Española.

10. The *bachiller* Hernán Xuárez was to be sent to the island at the expense of the Crown for the purpose of teaching Latin grammar to the children of the caciques.

11. Since beasts of burden had greatly multiplied on the island, it was forbidden thenceforth to use Indians as carriers.

⁷ This was a direct slap at the agitating Dominicans. The feud between the government and the various orders that undertook the protection of the Indians was a long and bitter one. Serrano y Sanz maintains the thesis that the Dominicans of Española were in actual rebellion against the Crown (*Orígenes*, 351, *et. seq.*). This is plausible, but what reformers have not been considered in the same light? Later in New Spain the Franciscans were in the identical case. See any account of New Spain under the first Audiencia, 1528-1530.

12. The Indians were forbidden to dance.

13. The Indians engaged in gold mining were to be so employed for five months running. At the end of this period they were to be given a forty-day rest, in which they were to do their own planting.

14. The Indians at the mines were to be given a pound of meat every day, except on fast days, when they were to receive fish or sardines.

15. The Indians on the plantations were to be fed on their native dishes, and on Sundays and holy days were to be given a dish of meat.

16. The Indians were to be persuaded to give up their evil habit of concubinage, and marry.

17. They were to be restrained from bleeding and painting themselves, and getting drunk.

18. Women after four months of pregnancy were not to be sent to work in the mines, but might be used in light tasks, such as housework, bread-making, cooking, and weeding.

19. Beating, whipping, and imprisoning the Indians were forbidden. If any Indian was to be punished, his case must be laid before the visitor.

20. The Indians were to be paid a wage of a gold peso a year, besides their maintenance.⁸

21. Encomenderos were not to be allowed to exchange Indians with one another. All were to keep a record of their Indians, of their births, deaths, etc., for the persual of the visitors.

22. The visitors were not to bring runaway or lost Indians to their houses, but were to desposit them with a responsible third party until they could be returned to their masters.

23. The number of Indians to be kept by the caciques for their personal service was limited: a cacique with forty Indians might have one servant; if he had seventy followers he might

⁸ This was enough, says Las Casas, to buy them "a couple of combs and a mirror, a kerchief and a red cape" (*Historia de las Indias*, III, 435).

retain three; if a hundred, four; a hundred and fifty, six. The maximum allowed any cacique was to be six.

24. The caciques and their servants, however, were not to be allowed to indulge their favorite passion of idleness, but were to be employed in light tasks.

25. The third part of all the Indians in the island was to be kept at work in the mines, as before, save that some of the most distant provinces were to be exempted from this service, and instead were required to furnish provisions for the mines.

26. Those *encomiendas* at a great distance from the mines and not in a position to furnish provisions might send their men to work in the mines and share in the profits.

27. Concerns working the mines on a share basis.

28. Concerns bringing free Indians from other islands.

29-30. The visitors were to be given *encomiendas* by way of compensation.

31. Visitors were provided who were to visit each town in pairs twice a year to see that these laws were being observed. They were to be named by the Admiral and royal officers from among the most pious and honorable men of the island.

32. If at any time the Indians should give proof of being able to live under their own government, they were to be allowed to do so, by paying the ordinary feudal dues of Spain.⁹

The bitter complaints of the colonists against the Dominicans, who were upsetting the established order of things, disturbing the peace, bringing disrespect upon the laws of the King, etc., were brought to Ferdinand's attention. He, in turn, passed them on to the Dominican Provincial of Castile, who passed them on to Pedro de Córdova, the prior of the Dominicans in

⁹ A complete printed text of the Laws of Burgos of 1512 is not obtainable. The present text has been compiled by collating the following sources: Las Casas, *Historia de las Indias*, III, 417-438; Herrera, *Historia General*, I, 323-325; Instructions of Cardinal Cisneros to the Jeronymite Fathers, in D.I.L., XXIII, 310-331. Several of the minor articles are not numbered in any of these sources, and have been inserted here in the possible order of their occurrence.

Española. He, scenting that all was not going well, came immediately to Castile, arriving just after the passage of the Laws of Burgos. No one could call these laws a great human document, and Pedro de Córdova was naturally disappointed at the meager results of the agitation of the Dominicans. He obtained of the King a reconsideration of some of these measures, and the weary Ferdinand appointed a new junta, which recommended certain revisions:

1. Married women were not to be compelled to work in the mines, or anywhere else, save by their own or their husband's consent, but must work on their own farms or on those of the Spaniards.

2. If these women should become pregnant, they were to be treated as provided by the law.

3. No children under fourteen of either sex were to be compelled to work, save at those tasks which were fit for children, such as weeding, etc. Those children over fourteen were to be under their fathers' authority until they were of age, or were married.

4. The children were to be allowed to learn trades, if they so wished, and nothing was to be tolerated which might interfere with their religious instruction.

5. Unmarried girls were to be kept apart and taught apart from the others.

6. The Indians were to be compelled to give nine months a year of their time in the service of the Spaniards, and, to prevent their living in idleness and to assure their learning to live and govern themselves like Christians, they were to be compelled to spend the remaining three months working on their own farms, or working for the Spaniards for wages, and this was to be for any length of time that his Majesty might direct.

7. The Indians, men as well as women, were to be compelled to go about clothed.

8. The services of the Indians which were due to his Majesty might be transferred to anyone, for life, or for any period his Majesty might wish.

All these recommendations, with the exception of the last, were approved on July 28, 1513, and were incorporated with the Laws of Burgos.¹⁰ It is difficult to determine why this last provision was not allowed, as it did no more than recognize the established practice in the granting of encomiendas. Las Casas, with his penchant for believing the worst, thinks that it was struck out by the officials who were to receive large grants of Indians, because they feared that it might be thought that they were conniving at their own profit.¹¹ It is more plausible to suppose that it was disallowed because of its mention of life tenure for the encomiendas, which the Crown had been at some pains to discourage. On the other hand, there had already been two instances where encomiendas were granted during the pleasure of the King. One was the general cédula of October 17, 1511, issued for the purpose of encouraging emigration to Española and San Juan.¹² The other is the general cédula of June 18, 1513, doing the same for the "discoverers" of Tierra Firme.¹³

There is this much to say for Las Casas' hypothesis: the high officials at Court did receive large grants of Indians. According to Las Casas and his followers, the Bishop of Burgos received 800; the King's secretary, Lope Conchillos, 1100; Hernando de Vega, a member of the Council of the Indies, 200; Juan Cabrero, chamberlain, 200; etc.¹⁴ But Las Casas omits one great item

¹⁰ The full text of these recommendations will be found in Las Casas, *Historia de las Indias*, III, 442-445.

¹¹ Las Casas, *Historia de las Indias*, III, 449.

¹² General cédula of Oct. 17, 1511, in Serrano y Sanz, *Orígenes*, 424-426.

¹³ General cédula of June 18, 1513, in D.I.U., IX, 4-15.

¹⁴ Herrera, *Historia General*, I, 325; Las Casas, *Historia de las Indias*, III, 450.

that should have tempered his conclusions, that is, the King himself was the largest holder of all.¹⁵

It was the regular custom of the Crown to recompense its officers by grants of Indians, as is illustrated by the royal instruction issued to Diego Velázquez for the distribution of the Indians of Cuba:

I entrust and commit the said distribution to you, . . . and I therefore command you that as soon as you are shown this letter you are to inform yourself as to . . . what peaceful caciques and Indians there are in the said island of Cuba, so that they may be used by and distributed among the residents and settlers there. When you have obtained this information, you will make the said distribution according to your best judgment, first taking care of such officers of ours as may be there now or will come in the future, and then the first settlers and discoverers of the said island, and then those who have *cédulas* from us for grants of Indians, . . . and then those who you think are most deserving of the said Indians and who will best instruct them in matters of the Holy Catholic Faith and will give them the best treatment for the conservation of their lives and health . . . ¹⁶

Thus far the agitation of the Dominicans had been of little positive benefit to the natives, but it had had the effect of making the Court aware of the imminent danger of the total abandonment of the Indies. This is apparent in the increasing number

¹⁵ Referring once again to the report of the *juez repartidor*, Rodrigo de Alburquerque, who was sent to Española to make this distribution, we learn that the actual numbers of Indians granted to absentees were as follows.

To:

The King.....	1430
Juan de Fonseca.....	244
Lope Conchillos.....	264
Hernando de la Vega.....	745
María de Toledo.....	428
Diego Columbus, brother of the "old Admiral".....	250
Ferdinand Columbus, bastard son of the "old Admiral".....	266
Miguel de Pasamonte, treasurer.....	251
Juan Cabrero, chamberlain.....	424
Rodrigo de Alburquerque, the "juez repartidor" himself.....	270
Almanza, secretary to the King.....	238
Lucas Vázquez de Ayllón, appellate judge of Indies.....	440
Total	5250

¹⁶ General *cédula* of Ferdinand, May 13, 1513, in D.I.L., XI, 331-333.

of privileges granted to colonists, and in the renewed efforts of the Crown to foment inter-racial marriages. In 1514 Ferdinand prohibited any discrimination against such Spaniards as took native wives, and the following year repeated that whites and natives were absolutely free to marry whomever they pleased.¹⁷

By this time conditions in the unlucky colony had reached such a pass that their description has exhausted the stock of epithets of every writer from Las Casas down. The *Brief Relation* is the classic of this terrific period. A more restrained account is that of the Dominican missionaries to Cardinal Chièvres, and has the advantage of being contemporaneous with the events.¹⁸ One must allow a wide margin for the partisan feeling of the time and remember that there was no incentive to reveal anything good about one's opponent. After making every conceivable allowance, however, enough remains severely to indict the Spanish régime.

During twelve years of the period under discussion, 1502 to 1514, Bartolomé de Las Casas had been in Española and Cuba. He had witnessed all the atrocities that he describes with such gusto in the *Brief Relation*. He had taken holy orders in 1510, and shortly thereafter had accompanied his friend, Diego Velázquez, in the conquest of Cuba, where he accepted an encomienda, as he had done in Española, and sent his Indians off to the mines, precisely as the other encomenderos did. This state of iniquity lasted until 1514, when, hearing of the preaching of the Dominicans, and inspired by one of his own texts, he

¹⁷ General cédula of Ferdinand, Oct. 19, 1514, in D.I.U., IX, 22-23; Cédula of Ferdinand to Diego Columbus, Feb. 5, 1515, in D.I.U., IX, 52-53. The report of Alburquerque (again) shows that Spaniards with Spanish wives received on the average twice as many Indians as those with native wives (D.I.I., I, 50-236).

¹⁸ The Dominicans of Española to Cardinal Chièvres, June 4, 1516, in Fabié, *Vida de Las Casas*, II, 19-42. The date given this document in the D.I.I., is Dec. 4, 1519. The notorious carelessness with which this collection was got together makes one suspect everything in it. Here the date given by Fabié is the more acceptable, as it coincides with the hottest period of the agitation of the Dominicans.

set to thinking of the injustice being done the natives. Still unconvinced, he went to one of the Dominican missionaries for confession, and was refused absolution because of his being an encomendero. In the argument which followed Las Casas became more and more convinced of the wrong of seizing the property and bodies of the natives. The startling originality of such a thought, after twelve years, brought about a complete conversion to the Dominican's point of view, and Las Casas decided to devote his life to redressing the wrongs done the Indians.¹⁹

His resolution was no sooner made than acted upon, and he gave up his Indians—for other encomenderos to use—while he made his way to Court in 1515 and joined the ranks of the reformers. He brought to them the one element they needed: the fighting man, one who had the gift of wholly accepting a doctrine with all its inferences and consequences, never wearying of the struggle, and never so much as varying a hair's breadth from his original stand. His philosophy can be stated in a few words: the New World was granted to the Spaniards by Pope Alexander VI solely for the purpose of converting the natives. Hence the Spaniards have no right whatever to use the natives for secular purposes. Nor have the Spanish monarchs any right to the territory of the Indians, except in so far as its possession furthers the purpose of its grant. The only just remedy is complete restitution and the removal of the Spaniards from among them, that is, all except the necessary missionaries. The missionaries must bring the Indians to a knowledge of Christ, but by peaceful and loving means only, using no force whatever.²⁰

¹⁹ Las Casas, *Historia de las Indias*, IV, 253–255.

²⁰ This, in substance, is the argument against exploitation of the natives as given by Las Casas in his *Treinta Propositiones*, which came out many years later, in 1549, but in all his proposals the one guiding principle of conversion without force is present. For the text of the *Treinta Propositiones* see Llorente, *Œuvres de Las Casas*, I, 290–311. The doctrine was most fully elaborated by the great humanist, Francisco de Victoria, in his *De Indis et de Ivre Belli Relectiones*, which were delivered in 1532.

Las Casas' strength and his weakness lay in his inability to change. For fifty years after his conversion he kept up his uncompromising fight. Long after most of the abuses he attacked had been greatly modified by easier conditions, and the *encomienda* had developed from its crude beginnings to something near a complete social system, Las Casas was still attacking it as if nothing had changed in thirty years. His pertinacity and the constant efforts of the Dominicans brought about a series of reforms, culminating in the New Laws of 1543, which all but cost Spain her American colonies.

But in 1515 Las Casas, with his single-minded zeal and long experience in the Indies, became a mighty power at Court. Montesino, who had returned to Española after the passage of the Laws of Burgos, was designated by Pedro de Córdoba to accompany Las Casas to Castile. The two embarked in September, 1515, and arrived in Seville in December. There Montesino obtained a letter from the Archbishop of Seville to the King introducing Las Casas. The latter went directly to the monarch, avoiding the two ministers, Fonseca and Conchillos, who were known to be hostile to further reform in the Indies. Las Casas ascribes their hostility to the fact that they were themselves holders of *encomiendas* of Indians. Their interest cannot be denied, but reasons of state may also account for their opposition, as then and later no single factor contributed more to the disorder of the Indians and the misfortunes of the Indians than the insecurity of tenure of the colonists created by the stream of inconsiderate measures forced through the Court by the reformers.

Ferdinand listened to Las Casas, and promptly referred him to Fonseca and Conchillos, and while the apostle was being shunted back and forth between the two ministers, the aged and weary monarch died (January 23, 1516). Las Casas wasted no more time with the passing régime, but set out at once for

Flanders to interview the young King Charles. On the way, however, he found a listener in the regent, Cardinal Ximénez de Cisneros, upon whom he made such an impression that the Cardinal appointed a junta to consider a remedy for the Indian situation. The result of its deliberations was the most curious proposal in government, nothing less than the administration of the Indies by a monastic order.

CHAPTER V

THEOCRACY

Las Casas' proposal, as presented by the junta, was revolutionary. Among other things, it advocated the suppression of the encomiendas, the complete liberation of the Indians, and the administration of the native population by the religious. The Cardinal accepted the program, but the question arose, whom to send on this mission of redemption? Was it to be the Franciscans or the Dominicans? Now Cisneros himself was a Franciscan and knew the long-standing antagonism existing between the two orders. The jealousy and confusion which would result from placing one or the other in entire charge was obvious. So Cisneros decided to ignore the Dominican candidate urged by Las Casas, and to place the execution of the reform in the hands of the Order of St. Jerome. Still, he left the selection of the personnel to Las Casas.

No reformer ever had a more perfect opportunity to carry out his theories. Everything was in his favor: a powerful and sympathetic regent, the disgrace of the two ministers who had opposed him, and the choice of the men who were to execute his plan. He himself was to have a position analogous to that of consulting engineer, and his advice was to be sought on all questions. Yet the plan was doomed to failure before the movement had got well under way.

Las Casas chose, after many consultations, three prominent Jeronymites: Luis de Figueroa, Bernardino de Manzanedo, and Alonso de Santo Domingo. He chose these three for their rectitude and piety to be the submissive instruments of his will. Las Casas made many mistakes, but few greater than his misjudgment of these men. From the beginning they showed themselves restive under his dictation, and Las Casas was not long in

suspecting that he had erred in choosing them. According to his account, they were at once approached by those interested in defeating the new reform, and such was their lack of piety, so slight their faith in their leader, and so great the credit they gave to his enemies, that they frivolously decided to oppose him and throw in their lot with the oppressors of the natives. The indignant apostle reported their defection to the Cardinal, who impatiently refused to substitute others for them. Could it be that Cisneros had also been suborned by the wily colonists? The most he would do was to give Las Casas a commission to accompany the Jeronymites under the somewhat ambiguous title of Protector of the Indians. The Jeronymites had become completely estranged from him and refused to allow him to sail in the same vessel with them, in spite of his insistence, or, perhaps, because of it.

This seemingly facile change of front on the part of the Jeronymites cannot be so easily accounted for. If these just and pious men could be so readily persuaded that Las Casas was an impractical visionary, they must have had some more powerful reason than the interested propaganda of the encomenderos. Their case was not unique. The same fate was to pursue all of Las Casas' schemes. For some reason he rarely retained for long the confidence of his colleagues. He could brook no dissent. His *Historia de las Indias* shows throughout that to disagree with his opinions was to lay oneself open to charges of anything from folly to corruption. He loses no opportunity to belittle and ridicule the achievement of the Jeronymites.¹

It is hard to believe that these three men would voluntarily desert the calm and dignified life of the cloister to undertake a

¹ Las Casas' account of their administration shows him at his worst. It is seventy pages of glorification of himself and disparagement of the Jeronymites. Unfortunately for their fame, the *Historia de las Indias* (IV, 277-347), has been the most accessible source for the period. Serrano y Sanz has undertaken a belated rectification of their history in his *Orígenes de la Dominación Española en América*, 339-450, with a great abundance of corroborative testimony.

colossal and ungrateful task in a hostile community. There is evidence to show that they did so against their better judgment and that of the general of their order, Pedro de Mora, but Cisneros would not be denied, and overrode their objections.²

Cardinal Cisneros was a justly celebrated statesman, but he must have been more persuaded by his piety than by his judgment in his hasty adoption of Las Casas' scheme for the rehabilitation of the Indians. How could he suffer himself to believe that three holy men from a cloister could prevail upon the lions and the lambs of the Indies to lie down together? The amazing thing about it is that they were not entirely unsuccessful in their task, the magnitude of which, as contained in Las Casas' plan, passes belief. This plan is a curious example of the workings of a mind trained to operate a priori.

Upon the arrival of the three Jeronymites in Santo Domingo, they were to call the principal caciques and encomenderos together and inform them that it was to be the policy of the Crown to see that they lived together in peace and amity. They were to ask the opinion of both natives and Spaniards on the best ways and means of remedying the present situation.

The colonists were to be reassured that no hardship would be worked upon them and that nothing would be taken from them that was rightly theirs, but that the natives were free subjects of the King and were not to be mistreated, etc.

The caciques were to be persuaded, voluntarily, if possible, to move their people into towns and to pay a certain just tribute to the King. The Spaniards who had been deprived of their encomiendas might be persuaded to accept a portion of this tribute in compensation for the loss of their encomiendas, while the balance of the Indians' earnings could be deposited with some reliable party, who would see that it was not used wastefully.

² Sigüenza, *Historia de la Orden de San Jerónimo*, II, 101-110.

In case the Indians did not move into towns voluntarily, the Jeronymites were to select sites for the towns which would permit access to the mines with the least inconvenience. Each town was to be composed of three hundred Indians, more or less. It was to have a church and a hospital and a common. These towns were to be governed by Indian caciques, assisted by a priest and a Spanish administrator, a "man of good conscience." Spaniards, however, were to be urged to marry the daughters of caciques, as by their inheritance of the cacique-ship they would save the Crown the expense of keeping an administrator in each town. This magistrate was to have as his especial care the instruction of the Indians in civilized ways: he was to induce them to lead an orderly life, that is, they were to be persuaded to wear clothes, to sleep in beds, to content themselves with one wife, etc.

A religious or a priest was to be assigned to each town, to attend to the doctrinal education of the natives and the administration of the sacraments. The priest and the administrator were to be paid a salary, one-half of which would be contributed by the Crown and one-half by the natives.

The number of men to be kept at the mines or on the farms, their hours of work and rest, what they were to do, and when, and how, were all prescribed to the uttermost detail.

The ousted encomenderos might be taken care of by having their estates bought by the Crown, or by being hired as miners, or by being given permission to mine on their own account, or by being made administrators of the new towns. Some might prefer to emigrate to *Tierra Firme*, in which event they might be assisted to the amount of their transportation. Should these men be prevented from emigrating because of their debts, some gratuity might be given them to keep them out of jail.

This cool confiscation of the colonist's property—their encomiendas had been won with the sanction and approval of the

Crown—is the part of Las Casas' program which one would not expect a statesman to approve. In fact, Cisneros may have suspected that the colonists might object to the loss of what was, from their point of view, a hard and legally earned independence. At any rate, he appended to the Jeronymites' instructions an alternative plan to be followed in case the first was not successful. It was a complete reversal of Las Casas' scheme.

Everything was to remain as provided for in the Laws of Burgos save that certain changes were recommended. The Indians were not to be forced to move to the estates of the encomenderos; they were not to be forced to carry burdens; they were not to be forced to work during their prescribed rest time, save at light tasks on their own farms; they might have meat every working day; they should be paid more than a gold peso a year; the women should not be forced to work, save at fitting tasks on their own farms. The visitors should not have Indians, but should be paid a salary by the Crown, with the other royal officers, as otherwise they would be tempted to fail to carry out provisions objectionable to the colonists. The importation of free Indians from outside islands, except the Bahamas, should cease until further instructions.³

The Jeronymites were given the widest discretion in the application of these instructions. The true nature of their office has given rise to some controversy. Las Casas, with his constant desire to belittle them, denies that they came as governors, "but simply to oversee and execute what had been ordered concerning the Indians."⁴ But it seems that they were practically royal governors. The *juez de residencia* who accompanied them, Alonso Zuazo, was ordered to consult with them on everything. After reviewing the case, Serrano y Sanz concludes that the Jeronymites "were made true governors,

³ Instructions of Cardinal Cisneros to the Jeronymite Fathers, Sept., 1516, in D.I.U., IX, 53-75. Included in the appendix to this volume.

⁴ Las Casas, *Historia de las Indias*, IV, 295.

especially of the Antilles, since in Castilla del Oro they intervened considerably less."⁵

As has already been said, Las Casas was sent to the Indies as Protector of the Indians. One suspects that it was with the double motive of getting rid of him and of keeping an eye on the Jeronymites. His instructions give him two functions: to advise the Jeronymites on the best measures for the improvement of the Indians, and to keep the Court informed as to everything that was or ought to be done in their behalf.⁶

The Jeronymites proceeded with exemplary caution in their difficult task. Las Casas was furious with them for not immediately putting his plan into execution. Considering that they were betraying their trust, he went before the *juez de residencia*, Alonso Zuazo, and denounced them. Zuazo refused to take action, and Las Casas resolved to carry his complaint back to Cisneros. There he was coldly received by that statesman, and abandoned all hope of saving the islands. For the next three years he busied himself in a more ambitious scheme of colonization, in which occupation we may well leave him for a space and turn our attention to the interesting experiment in progress in Española.

The Jeronymites had arrived in Española on December 20, 1516. Their first report to Cisneros is dated just a month later. It is the letter of three puzzled and frightened old men. Española was a good land and a fruitful, but woefully deserted. Considerable distrust had been aroused before their coming by the report that they were going to free the natives. To combat this mischievous rumor they had ordered the Indians to go to work. This was to reassure the colonists so that they would not interfere with measures which might be put into effect later. They had already taken the Indians away from absentees, to the general

⁵ Serrano y Sanz, *Orígenes*, 344.

⁶ Instructions of Cardinal Cisneros to Las Casas, Sept. 17, 1516, in Las Casas, *Historia de las Indias*, IV, 316-317. Included in the appendix to this volume.

rejoicing of the inhabitants. They had ordered the miners put on a salary, as, under the share system, they had been working their Indians excessively. The principal thing they had learned thus far was that there was a great difference between the land they had heard about and the one they saw with their own eyes.⁷

Five months later they reported that the Indians were being well treated. This they knew positively, because they themselves visited the *encomiendas* and had them visited by others. Anyone stating the contrary was not to be believed. (This for Las Casas, who was on his way back to Castile with a wallet full of complaints.) They recommended the importation of Negro slaves, which would relieve the Indians and would be a profitable enterprise. They also recommended the settlement of Española by colonists from Portugal and the Canary Islands, as there was a great need of farmers. Zuazo had begun his taking of *residencias*, and this, they found, was the cause of great disorder, as every man's hand was against his neighbor's.⁸

A letter of this time from that faithful treasurer, Miguel de Pasamonte, pays tribute to the moderation and judgment of the three Jeronimites:

Regarding the Indians and the government of these parts, which the Jeronymite Fathers have in charge . . . there is no necessity for me to say anything except that I approve of what they are doing, because they are looking after everything with great prudence, like wise and conscientious persons, and I hope that God and their Highnesses will be well served, and that your Most Reverend Lordship will receive much contentment from having sent hither such persons as the said fathers.⁹

The Jeronimites made a conscientious effort to learn whether the Indians were capable of self-government or not. With this purpose in mind they held an interrogatory of the leading colonists. This document is extremely illuminating, not only as

⁷ Jeronimites to Cisneros, Jan. 20, 1517, in D.I.I., I, 264-281.

⁸ Jeronimites to Cardinal Cisneros, June 22, 1517 (extract), in D.I.I., XXXIV, 199-201.

⁹ Pasamonte to Cardinal Cisneros, July 10, 1517, in Serrano y Sanz, *Orígenes*, Appendix, 558.

an illustration of what the Spaniards thought of their spiritual wards, but also as a counterpoise to the character of unbelievable simplicity, goodness, and gentleness given them by Las Casas.

The fifteen witnesses are unanimous on the personal habits of the natives. They are abandoned to drink and gluttony, vice and laziness. They prefer to live in the woods eating spiders and roots "and other filthy things" to living with the Spaniards. They have neither shame nor conscience, and take emetics to vomit what they have eaten. They do not wish to be subject to anyone, but to be free to enjoy themselves in idleness. They smoke tobacco. They refuse to recite the *Pater Noster* or the *Ave Maria* unless they are driven to it. They practice sorcery and believe their witch-doctors, called *botates* in their language.

The colonists are also agreed that the natives are less capable of self-government and the Christian life in complete liberty than the rudest Spaniard. The natives can do nothing without direction. They are indeed capable of living as they were accustomed, but not one would dig gold without being driven to it. They have no business sense, as they exchange things of great value for things of no value. Once two caciques were set at liberty as an experiment to see whether they would retain their Christian habits, but they reverted at once to their old vices. If the Indians were set at liberty they would never become Christians; trade would cease, because they would have nothing to do with the Spaniards, and the royal rents would cease, as the Spaniards would all leave the island. The Indians love to go about naked, and they hold money and property as of no value, excepting only food and drink. They have no sense of shame. When they are punished by the Spanish authorities—by beating or losing their ears, etc.—they have no feeling of guilt. They will not work for wages; they take no interest in commerce, and have no conception of tithes or taxes.

On the question as to the expediency of moving the Indian villages to the proximity of those of the Spaniards, opinion is

for the first time divided. One colonist thinks that by all means the Indians should be brought within reach, so that they may be cared for and taught the Holy Catholic Faith and saved from their vices. Another believes that some mortality might ensue among the young and the aged, and some would kill themselves, "as they have done before for matters of no consequence," while others would escape to the woods. Another thinks that if the proper land can be found for them they should be brought near the Christians. He fears, however, that they would make off into the wilderness. Another states that the Indians would be greatly harmed and that their lives would be endangered. Another, that there might be some present difficulties, but the ultimate result would be good; the natives would learn religion and the Spaniards would be saved the bother of going after them. Another, the Indians should not be molested; if moved they would kill themselves. Another, at present the Indians in the wilderness are not visited by priests; they should be persuaded to come of their own accord. Another, they should not be moved on any account.

The Jeronimites next inquired as to the expediency of removing the Indians from under the encomienda system and putting them under the Crown. The colonists became eloquent. This should by no means be allowed. The Indians would be much worse off under salaried overseers than under encomenderos who treated them well. Above all, no more changes! The present laws were sufficient for the protection of the natives if they were enforced. It would be better if the two months' rest period were abolished, as during that time the Indians reverted to their old habits. The encomiendas should be made perpetual. The encomendero, being dependent upon the work of the natives for his own support, would be more apt to protect them than a hired overseer. And so on. There was one dissenting voice. Colonist number ten could only say that if the Indians were set at liberty and allowed to give tribute, "within

twenty years, where there are now twenty-five souls in the island, there will be then a hundred and five, whereas if they are left in encomienda, as at present, the ratio will be but as twenty-five to twenty-seven.”

The Alcalde Mayor of the island did not agree with the statistical colonist, but urged that the Indians be given to encomenderos who would treat them well.¹⁰

The evidence of these citizens being in all likelihood a just index of the feelings of a great part of the colonists, it was good statesmanship on the part of the Jeronymites to abandon that part of Las Casas' plan which abolished the encomienda. Any attempt on their part to oust the Spaniards from their holdings would have provoked strenuous resistance, and perhaps civil war, as happened under the same circumstances in Peru twenty-seven years later. It was much wiser, as the Spanish government was to learn after costly experiments, to take the encomienda as a starting point and devote their energies to improving conditions under it.

The problem, however, of saving the vanishing remnant of the indigenes was a pressing one. Zuazo advocated the introduction of Negro slaves, who would be vastly superior to the natives as workmen. The gold production was diminishing, and the colonists would soon have to devote themselves to agriculture. The island, he said, offered excellent opportunities for the cultivation of sugar-cane and sheep, and agricultural colonists should be urged to come.¹¹

The attempt to replace the natives by importation from the “useless” islands had been pitifully inadequate. Zuazo reported to Chièvres that of the 15,000 brought from the Bahamas 13,000 had perished, the rest having been sold for slaves at very high prices.¹²

¹⁰ Interrogatory held by the Jeronymite Fathers, 1517, in D.I.I., XXXIV, 201-229.

¹¹ Alonso Zuazo to Charles V, Jan. 22, 1518, in D.I.I., XXXIV, 237-267.

¹² Alonso Zuazo to Cardinal Chièvres, Jan. 22, 1518, in D.I.I., I, 304-317.

The next epistle of the Jeronymites confirmed Zuazo on the advisability and profit of bringing Negroes from Guinea and the Cape Verde Islands. The Indians would thus be relieved from heavy labor and would have leisure in which to learn religion. There were very few of them left. At the coming of the Spaniards they had numbered several hundred thousand, and now they were as scarce as "fruit left on the tree after the picking."

The Jeronymites had set about gathering the remaining Indians together in villages. They had encountered some opposition among the Spaniards, but had secured their cooperation by threatening to withdraw permission to use the Indians. The Indians were to be settled in groups of four to five hundred. Officers had already been selected to administer them. The sites would not, however, be ready for another year, as it was first necessary to provide means of support. By that time five or six villages would be ready for occupancy. In all they estimated that there would be twenty-five or twenty-six villages. They had provided a married Spaniard and a priest for each village, who would be put on a salary until the villages should be able to support them.¹³

After the departure of the Jeronymites for the Indies, affairs in Spain were in such a state of confusion as to preclude much interest in the Indies on the part of the government. The three monks were left in ignorance of whether they were supported or not, receiving no word from the failing Cisneros or the King. After a year of neglect they learned of the death of the Cardinal (November 8, 1517), and resolved to send one of their number back to Court to petition the new government to relieve them of their commission and allow them to retire to their cloisters. Their emissary was Father Bernardino de Manzanedo, whose report to the King on the conditions in the Indies is at once the clearest and most objective document in the period. If no

¹³ Jeronymites to Charles V, Feb. 18, 1518, in D.I.L., XXXIV, 279-286.

other evidence were available, this letter of Manzanedo is sufficient to establish the disinterestedness, wisdom, and moderation of these excellent men.

The three fathers, reported Manzanedo, had been at great pains to ascertain some remedy for the Indians which would, at the same time, satisfy the colonists. After exhausting all possible sources of information they had concluded that there was no plan that they could recommend in its entirety.

Father Bernardino himself thought, judging from his own observation, that the Indians were not capable of governing themselves after the Spanish fashion, and that they had no love or desire to lead the Christian life. If left to themselves they would surely revert to their ancient ways, and their souls would be lost. On the other hand, if left in the power of the Spaniards, they would just as surely continue to diminish. The plan to set the Indians at complete liberty,¹⁴ he thought, was the "plain way for the soul," although the royal revenues would suffer at first from such a measure.

Another suggestion was that the Indians should be kept in encomienda under the Laws of Burgos, but that greater care should be taken in the enforcement of these laws. The religious, Franciscans and Dominicans both, were opposed to this, claiming that the Indians could not and should not be given in encomienda, "and they suggest other remedies, many of which have no fewer difficulties than those they reprehend."

Father Bernardino's suggestion was that a commission should be appointed to study the problem dispassionately. But of all the plans thus far put forward he thought the encomienda had less objectionable features than the others. It would help matters if the Indians were relieved of the arduous work of mining, as they were a weak race, "drinking water and eating cazabí, a bread of little substance." They would be used exclusively in agriculture, and, although the revenues might suffer at first,

¹⁴ That is, in charge of the religious.

in time they would increase with the development of the country. Agriculture had thus far been neglected, as the desire for gold was so great that no one would take his Indians from the mines.

“One of the principal causes of the depopulation of those parts has been the changes. Since no one has had the assurance that he would be able to keep the Indians given him in *encomienda*, he has used them like borrowed property, and thus many have perished and are perishing.” The fate of the slaves and *aborías perpetuas* was better than that of the Indians in *encomienda*, because they were held in perpetuity. Any novelty should be undertaken with much caution, as it would in all likelihood do more harm than that which it was designed to eliminate. But once any disposition was made, it should be given all the stability possible, and no meddling should be tolerated, or exceptions allowed, because otherwise “your Highness would be obliged to remedy the Indies every two months, as you are now doing.” Another reason for proceeding with caution was that the Indians would be quick to take advantage of any slackness and would rise against the Spaniards, as had recently happened in San Juan.

In case the *encomiendas* were continued, it should not exceed eighty persons, including children and old men. It should be granted to married men who intended to settle permanently in the country, and by no means to persons in Castile, because much harm had come to the Indians from this, and the country had not been settled. Neither should they be granted to governors or judges, as “they will execute the laws very much better without them than with them.” Mechanics and merchants should also be excluded from *encomiendas*, as they already had means of living. A few *aborías* might be assigned them as assistants and apprentices.

The inhabitants had begged his Highness to distribute the Crown Indians among them. Father Bernardino advised against so doing, as the government would need them in many public

works which the inhabitants were afraid to undertake. They had also begged that ecclesiastics might not have Indians, as it was unsuited to their cloth, etc., but Father Bernardino thought that if the good of the Indians were the only thing to be considered, their fate under churchmen would be considerably better than under laymen.

There was a great scarcity of priests. Indians and Spaniards were both suffering. Men of good life knowing the problems of the Indies should be chosen for this service. They should be given great authority in Indian affairs, with a minimum of interference from Castile. Up to that time Father Bernardino had seen little evidence of effort made to convert the Indians.

To sum up, he feared that so long as service was required of the Indians, they would continue to diminish, and so it was very urgent that steps should be taken for the repopulation of the islands. The new settlers should be married men, mostly farmers, as eventually the cultivation of the land would be more profitable than mining. Colonization could be encouraged by giving license to emigrate to all the people of Spain. All the ports should be opened to commerce with the Indies, as that would bring people thither from every part of Spain, where now only those from Seville came in contact with the Indies.

The inhabitants were all clamoring for the license to import Negro slaves. This, thought Father Bernardino, was one remedy for the overworked Indians, and it would also increase the revenues. If enough colonists could be sent over at the same time, there would be no danger from the Negroes in Española, although the same could not be said for Cuba and San Juan. In Cuba the Negroes would be dangerous because of the great number of Indians there, and in San Juan because of the frequent raids of the Caribs. The Negroes should include both sexes, with more women than men, if possible.

The class of people from which the colonists came was very poor, and Father Bernardino thought that they could be en-

couraged to emigrate if granted certain privileges. Their household goods should pass duty free, as well as the goods brought over for the maintenance of their establishments, mines, Indians, and slaves. They should also be aided by gifts of cattle, oxen, seeds, etc., and should be allowed to buy slaves on deferred payments, so that they might begin to cultivate as soon as possible.

"I know little about colonizing," concludes Father Bernardino in a plaintive note, "and I beg your Highness to pardon me for what I have said least well, and grant me permission to retire to my monastery, and the fathers in the Indies to theirs, because, as I have said before, these are not things that we think fitting to our cloth and our order."¹⁵

The mild reforms undertaken by the Jeronymites satisfied nobody. Las Casas had left in a huff because they had not at once removed the Indians from the power of the colonists, and now their attempts to follow the spirit of their instructions brought down upon them the wrath of the realistic party headed by the treasurer, Pasamonte. Complaints of favoritism and graft reached Court. Charles was too much of a realist himself, and too much of an autocrat, to approve of such an anomaly as the Jeronymite government, and, since the Jeronymites had repeatedly begged to be relieved of their thankless post, he took steps to oblige them. First he removed the judiciary from under their control. This was in August, 1518, and the following December he released them entirely, transferring their powers to a new *juez de residencia*, Rodrigo de Figueroa.¹⁶ Such was the leisurely movement of vessels in those days, however, that they continued in power until August, 1519, when with the arrival of Figueroa their administration may be said definitely to

¹⁵ Bernardino de Manzanedo to Charles V, 1518, in Serrano y Sanz, *Orígenes*, Appendix, 567-575.

¹⁶ Cédula of Charles V to the Jeronymites, Aug. 22, 1518, and letter of Dec. 9, 1518, in Serrano y Sanz, *Orígenes*, 441-442.

end. They remained in Española some months longer in an advisory capacity and finally reached Spain sometime in 1520.

There they sought an audience with the Emperor, but he refused to see them, much to the glee of Las Casas. "The cleric Las Casas," says the apostle, "attributed it all to a judgment of God who did not wish them to be heard by the King or for him to pay any attention to them, since they had done so little to remedy the oppressed Indians." Las Casas' God continued implacable toward the unlucky Jeronymites, as several years later, when Luis de Figueroa was named Bishop of Santo Domingo, God did not let him arrive at his bishopric, but had him die before setting out.¹⁷

The Jeronymites had made one vigorous attempt to carry out the most important provision of their instructions, that is, to reduce the native population to villages. Before January, 1519, they had had built some thirty of these villages, but unluckily, just as the natives were to be transferred to them, a fearful epidemic of smallpox broke out and a third of the natives perished. This disaster, wrote the Jeronymites, made it imperative to begin the shipment of Negroes at once, for if the pestilence should last another two months no gold would be mined that year.¹⁸

The instructions of the new *juez de residencia* fill fifteen quarto pages, double column and fine print. They include the entire code of Burgos as revised by Cisneros, many of the instructions given the Jeronymites, most of the recommendations of Bernardino de Manzanedo, and a great many wholly new ideas. It is difficult to see what could have been expected of Figueroa, short of insanity or suicide. He found himself faced with the same dilemma that faced the Jeronymites. If the Indians were removed from the encomiendas, everyone agreed that the Spaniards would abandon the island; if they were left in the enco-

¹⁷ Las Casas, *Historia de las Indias*, V, 159.

¹⁸ Jeronymites to Charles V, Jan. 10, 1519, in D.I.I., I, 366-368.

miendas, they would inevitably perish. And then what would happen if they were set at liberty? Figueroa tried the experiment of allowing two of the new villages to govern themselves, but found that they would do only enough work to keep themselves from starving, and no more. Frankly, he thought them incapable, but if they increased at all the experiment would be justified.¹⁹

Charles, however, had become convinced that the encomienda must go. This weighty decision, made on the very eve of the conquest of Mexico, was to have very important consequences. Charles had decided that "the Indians are free and should be given entire liberty, and we, in good conscience, cannot and should not give them in encomienda to anyone as hitherto has been done." The Indians that Figueroa had removed from the Crown and from absentees should be put in villages, as he was doing, and the same was to be done with the Indians in encomiendas as they should become vacant. These villages were to be administered as described in the instructions of the Jeronimites, with a priest, a man of good conscience, etc. Some, however, had suggested that they be administered after the manner of the Spanish feudal estate. Figueroa was to send his opinion on this to the King. Figueroa had reported that the Caribs were still in the habit of eating human flesh. Now, owing to the great scarcity of Indians in Española because of the late epidemic, it would seem just to bring the cannibals as slaves to relieve the Indians.²⁰

The blind and fumbling Indian policy of the Spanish Crown up to this time makes it easy to drift into a denunciation of the whole Spanish effort, a temptation to which too many have readily yielded. When the policy was not one of squeezing the last *maravedí* of revenue out of the natives, as under Ferdinand,

¹⁹ Rodrigo de Figueroa to Charles V, July 6, 1520, in D.I.I., I, 417-421.

²⁰ Figueroa to Charles V, 1519, in D.I.I., I, 379-385. Cédula of Charles V to Figueroa, May 18, 1520, in Serrano y Sanz, *Orígenes*, Appendix, 605-607.

it was such economic folly as attempting to restore them to a state of pristine innocence, to the utter ruin of the colonists. The policy was not even one of intelligent experiment. The whole was dictated by the two utterly conflicting interests mentioned in the first chapter, the ecclesiastical and the economic. Add to this primary reason of the chaos of Indian legislation the fact that Spain drifted into the colonizing business with no adequate machinery of government, under a rigid and cumbersome absolutism, complicated by the interference of favorites and the readiness of every despot to give ear to all tale-bearers. The wonder is that anything constructive was ever accomplished.

Perhaps the element that furnished the greatest obstacle to ameliorative legislation was the Spanish population of the Indies, at least during the first critical quarter-century. The Spaniards were a military people. A large number of them had, and continued to have, no honorable occupation but that of war, and no income but its spoils. They were ignorant, credulous, unstable, callous of suffering, proud, ambitious of petty rank, scornful of manual labor, and incredibly hard up. The appeal made to such a class by a new country where gold was supposed to abound and where every white man could set up as a petty lord over a submissive native population, was irresistible. Once, there, these adventurers were caught in the net of their own incompetence, and many perished, bringing down with them practically the whole of the island population.

One institution had developed during this harsh period, a rude adaptation of the feudal idea, a system analogous to that by which the Catholic Monarchs had distributed the lands of the conquered Moors among the Spanish chieftains. This was the *encomienda*. In itself it was not particularly vicious. A large part of Europe had got along somehow for a good many centuries on no worse. If the people of *Española* had been a more robust or more highly civilized race, they might have survived.

The island race perished because they could not support the burden of the harsh and wasteful parasite class imposed upon them. The encomienda did not kill them off. Properly administered, as it was to be in better times on the continent, it might even have saved them from destruction. But Las Casas and the Dominican reformers at Court had convinced Charles V that the encomienda was responsible for the evil conditions in the islands. So when the news of the conquest of Mexico reached Spain he resolved that his new empire should not meet the same fate.

CHAPTER VI

THE PARTITION OF MEXICO

The slave-hunting expeditions that discovered the coast of Mexico and Yucatan spread through the islands the news of the higher civilization of the mainland. Nowhere else in the Indies had they met with such cities of stone and mortar and well clothed people. But they also found that this new land was given over to the most hideous vices, the most abominable of which were the practices of cannibalism, idolatry, and human sacrifice. Their gods were stone and wooden devils. Their habits made it the manifest duty of Christians to save them from themselves. And if they resisted—well, it was a fair land, and slaves were fetching a high price in the islands.¹

Cortés himself was much struck by the superior civilization of Mexico. He had spent twenty years in the islands and had seen the disastrous result of the Spanish occupation upon the native race there. Here was a new and rich empire. Was it to be destroyed in the same fashion? Cortés, like many enlightened men of his time, believed that this destruction was due to the *encomienda*, and he resolved that this evil was not to be introduced into the new provinces.²

Now, at the fall of the City of Mexico, toward the end of 1521, Cortés had with him an army of some 1500 men, who

¹ The frequency with which the vices of the Indians are mentioned in the old chronicles brings to mind a passage from Gilbert Murray's *Greek Epic*, quoted by James Truslow Adams in his *The Founding of New England* (pp. 14-15): "Unnatural affection, child-murder, father-murder, incest, a great deal of hereditary cursing, a double fratricide, and a violation of the sanctity of dead bodies—when one reads such a list of charges brought against any tribe or people, either in ancient or in modern times, one can hardly help concluding that somebody wanted to annex their land."

² Cabildo of Vera Cruz to Charles V, July 10, 1519, in Cortés, *Cartas*, 1-34.

were under the most shadowy military obligation to their chief. These men had been in their great majority drawn from the islands. They had fought hard and suffered severely in the arduous Mexican campaign. They had received no pay for three years except the small amount of booty left to them after Cortés had sent the lion's share to Spain to induce the Emperor to look kindly upon his highly irregular conduct. They were under no illusions about the motives of the conquest. They had already learned whereby the natives could be put to profitable use. There was nothing left for them but Indians, and Indians they must and would have. Cortés was too good a statesman to let principles stand in the way of expediency, and yielded to the threatening insistence of his men. There is some reason to believe that he also had begun to weaken, but that will come out hereafter. His letter to the Emperor shows plainly that he was forced into this disagreeable surrender:

I informed your Majesty in a former letter that the natives of these parts are of much greater capacity than those of the other islands, and that we thought that they were of such understanding and intelligence as would make them moderately capable, and that for that reason I thought it a grave matter to compel them to serve the Spaniards as they have done in the other islands, and also that if this were to be done away with the conquerors and settlers of these parts could not support themselves, and that in order not to force the Indians to serve them and to remedy the difficulty of the Spaniards, I thought that your Majesty should command that they be aided for their support from the revenues of your Majesty . . .

Since that time, in view of the many and continuous expenses of your Majesty, and that we should increase your revenues in every way rather than cause expense, and in view also of the great length of time we have been at war and the necessities and debts that we have all incurred because of it, the delay in any measure that your Majesty might take, and especially in face of the importunities of your Majesty's officers and men which I could not in any way escape, it was almost necessary for me to deposit the chiefs and natives of these parts with the Spaniards, which I have done with proper consideration for their rank and the services they have rendered your Majesty. Thus, until something further is ordered, or this disposition is confirmed, the said chiefs and natives will serve the Spaniards with whom they have been deposited, and they will give them what they need for their support.

This step was taken with the advice of persons who are very experienced in this country. Nothing could have been, and nothing can be, better or more necessary for the support of the Spaniards, as well as for the conservation and good treatment of the Indians, as the delegates who are now on their way from New Spain will explain to your Majesty. The best and most important provinces and cities have been reserved for your Majesty. I beg that your Majesty will command that this be approved . . .

From the city of Cuyoacan of New Spain,

May 15, 1522.³

In consideration of Cortés' conversion to the encomienda principle, his original glowing account of the natives, like that of Columbus before him, was particularly unfortunate. It had reached Court just at the time when the controversy over the encomienda had been settled in favor of its abolition, as shown in the preceding chapter. This right-about on the part of Cortés could not but make the most disagreeable impression on the Emperor, who wrote back absolutely forbidding the continuance of the encomienda. He reviewed the whole case against it. The Indians of the islands had been greatly diminished by it; it had been an obstacle in the way of their conversion, to the great disservice of Our Lord; theologians and learned persons at Court had decided that it was contrary to the bull of donation to give them in encomienda, and that the Emperor could not do so with a clear conscience, since the Lord had created the Indian "free and not subject."

. . . . Therefore you are not to make any repartimiento or encomienda in that land, or consent to any assignment of the Indians, but you are to allow them to live in liberty, as our vassals of Castile live, and if before the arrival of this letter you have given any Indians in encomienda to any Christians, you will remove them and you will allow them to live in entire liberty and you will remove them from the vices and abominations in which they have been living and you will inform them of the favor we are doing them in this so that they may the more willingly come to a knowledge of our Holy Catholic Faith, and serve us and have the proper friendship and intercourse with the Spaniards

³ Cortés, *Cartas*, 271.

The provisions of this instruction show a notable advance in humanity and statesmanship over anything done for the islands. In the matter of conversion the Mexican priests (*tecles*) were first to be converted, because of their great influence with their people, but they were not to be pressed too hard lest they should become offended. The Indians were to be encouraged in their high civilization and urged to lead an orderly life. They were to be persuaded to abolish human sacrifices, but if persuasion failed they were to be forced to do so. They were to pay only the service and dues which they owed the Crown in common with all the other vassals. Free trade between Indians and Spaniards was to be encouraged, as it would bring Indians in contact with Christians. The latter were to keep all promises made to the Indians.

The Christians were forbidden to make war upon the Indians, or take their property without payment. Anyone injuring an Indian was to be severely punished. "And thus the Indians will come into closer contact with the Christians . . . and they will acquire a knowledge of our Holy Catholic Faith, which is our principal desire and purpose, and more will be gained converting a hundred by this means than a hundred thousand by any other."

However, it might so happen that the Indians would refuse to render obedience to the Emperor and war would become necessary. In such a case no action was to be taken against them until they had been urged in every way and in their own tongue to accept the dominion of the Emperor, and even then the Indians must be the aggressors. But once war was decided on, the Indian prisoners were to be made slaves. "But," went on the canny Emperor, "you are to bear one thing in mind, and that is that all the Christians will be greatly desirous of having the Indians warlike and not peaceful, so that they may be given in *encomienda* . . . and as they will always speak with this

purpose . . . it will be well for you to take this into account before giving them credence.”

Cortés was to prevent the taking of the daughters and wives of the Indians by the Spaniards, as that had been a great cause of friction in the islands. He was to locate his townsites with a view toward minimizing the use of Indians as carriers. He was to divide the land equitably among the colonists, who were to be given title to it only after five years of occupation.⁴

The provisional distribution of the people and lands of New Spain had already been two years in operation when the Emperor's peremptory order dropped upon Cortés.⁵ Nothing better illustrates the character of the conquistador than Cortés' reception of his master's letter. Presuming upon his new authority as Captain-General and Governor of New Spain,⁶ and upon the magic of the ancient formula of *obedeceo pero no cumpro*, he suppressed the Emperor's order in the faces of the four royal officers who had brought it, and then wrote a long letter to the Emperor explaining the whole situation in great detail, showing just why the new provisions would not function.

In the first place, free commerce between Indians and Spaniards would bring naught but disaster. If all the Spaniards were friars bent solely on the conversion of the Indians, such a plan, perhaps, would work. But they were not! Indeed, “the majority of the Spanish people who come here are of low quality, violent and vicious . . . and if such were given permission to go freely among the Indian towns they would convert the Indians to their vices.” Hence he had forbidden all Spaniards to go among the Indians, under severe penalties.

⁴ Instructions of Charles V to Hernán Cortés, June 26, 1523, in D.I.U., IX, 167-181. The main provisions of these instructions had already appeared in those given Francisco de Garay in 1521 for the discovery of Pánuco (Navarrete, *Viages*, III, 147-153).

⁵ It is necessary to remind the reader of the painful slowness of communication in Cortés' day. It took normally a year for a reply to return from Spain, and in many cases much longer.

⁶ Cédula of Charles V to Cortés, Oct. 15, 1522, in D.I.I., XXVI, 65-68.

The justification for the shelving of the prohibition of the *encomienda* fills two and a half quarto pages. The argument is very carefully developed :

1. Since the Spaniards had no means of support other than that afforded by the service of the natives, they would necessarily have to abandon the country in case it were taken from them. A further result would be that his Majesty would lose his new empire and the natives their souls.

2. It was not true that the natives would be free if the *encomienda* were abolished. On the contrary, Cortés' method of distributing them in *encomienda* released them from the unbearable slavery in which they had been held by their ancient masters, who had been in the habit of seizing them for sacrifice to their idols. Their slavery had been so unendurable, in fact, that now it was only necessary to threaten to return them to their native masters in order to have them serve the Spaniards willingly.

3. Cortés stated that he had lived in the islands for twenty-odd years and was familiar with the abuses committed against the natives there. He was going to take particular pains to see that the same situation did not occur in New Spain. He would not, for instance, allow the Indians in *encomienda* to be used for gold mining, or to be carried off to work on plantations. The gold mining would be done by slaves, of whom there was a great abundance, both of those captured in war and those acquired by purchase from the natives.

It was also illusory to suppose that the natives could be made to pay a money tribute to the Crown. In the first place, they had no money. In the second, if they paid in kind his Majesty could not use the goods. The towns already placed under the Crown had been almost ruined in the attempt to collect tribute, and Cortés had been forced to give these towns in *encomienda* to prevent their utter destruction. Since so doing he had seen these towns rebuilt and the royal revenues from them increased

to three times what they had been before. If any profit was to be made from such places, it would only be when they were placed in the hands of men who understood the business.

Then, too, suppose that the encomienda were abolished. Who would then hold the country for the Emperor? He would have to police the country with several thousand royal troops in the pay of the Crown, and such a pestilence alone would suffice to destroy the country.

One reason for the destruction of the island population had been the granting of Indians to the judiciary. Cortés had forbidden this practice in New Spain.⁷

The continual panic of the Spanish rulers lest one of their ambitious subjects make off with a part or the whole of the New World, was eminently justifiable with respect to Cortés.⁸ First he had met and captured Francisco de Garay, who was discovering in Pánuco with a far better title than Cortés' own. Then Cristóbal de Tapia, who had been sent from Santo Domingo to keep his eye on the new conqueror, was bribed and sent back to the islands. And now came Cortés' audacious shelving of the Emperor's direct command. What wonder that Charles V viewed this unknown adventurer with something more than suspicion!

Charles, in the abolition of the encomienda, had acted—this time at the recommendation of Cortés himself—without an appreciation of the momentum given it by twenty-five years of use in the islands. Like his predecessors, he was too ready to upset the economic system of the New World—if one may so term the devil-take-the-hindmost chaos in the colonies—for reasons of conscience. This interference, as was repeatedly urged, had the worst possible effect on the natives. In the resulting instability the encomenderos, in Manzanedo's picturesque phrase, used the

⁷ Cortés to Charles V, Oct. 15, 1524, in Cortés, *Cartas*, 325–339, and in D.I.M., I, 470–483.

⁸ For this case and others see Luis González Obregón, *Los Precursores de la Independencia Mexicana en el Siglo XVI*, Paris, 1906.

native like "borrowed goods" and had no thought but for immediate profit. Cortés' procedure came from a more realistic conception. He recognized that the *encomienda* had come to stay and that it would be more sensible to make it the base of the new society. In the face of a *fait accompli*, the Emperor had to make the best of it. "As this evil practice," says Solórzano, "had already struck root, it was not easy to pull up. Indeed, the governors and colonists made such complaints and pointed out such difficulties in the way of the execution of these new provisions . . . that they were suspended."⁹

Charles V, however, was not a monarch to overlook insubordination. The high-handed act of his governor was the occasion for the sending of that most dreaded officer, the *juez de residencia*.¹⁰ Moreover, he did not relinquish his purpose and made at least two more attempts to suppress the *encomienda*, in 1530 and 1542.

There was no apparent limit to Cortés' impudence. Satisfied that his letter had settled the acceptance of the *encomienda*, he wrote another in which he urged that it would be a great benefit to Spaniards and Indians alike if the *encomienda* were made perpetual. With stability and prosperity thus assured to the new provinces, his Majesty's revenues would increase proportionately. It would also help the stability of the country if a number of religious of good and holy life were sent over to convert the natives. The relation of missionaries to empire-building is not a late discovery.

The chief need, continued Cortés, was the assurance of the perpetuity of the *encomienda*. His Majesty might assure himself a fixed revenue from it by putting a sales tax on all its products, or he might insert a proviso in the grant that the *encomendero*

⁹ Solórzano, *Política Indiana*, I, 125.

¹⁰ Instructions of Charles V to Luis Ponce de León, his *juez de residencia* in New Spain, Nov. 4, 1525, in D.I.U., IX, 214-226. See also the secret instructions to the same, in *Residencia de Cortés*, I, 25-28.

was to pay a fixed perpetual tribute. Above all, the encomienda must be given stability in order to protect the Indians.

Cortés was right, as subsequent events were to prove. His case, however, was weakened by his claiming for himself a princely estate in the valley of Oaxaca, the fairest province of New Spain, with the overlordship of many thousands of Indians.¹¹ The inference cannot be avoided that this was in his mind when he acceded to the request of his men regarding the introduction of the encomienda into New Spain.

The Governor and Captain-General of New Spain would have been worse than a fool to suppose that he could flout the Emperor with impunity. The increasing stream of royal officers left no doubt about it. Whatever the motive was, his restless spirit found a congenial excuse for action in a report from Honduras. He had sent one Cristóbal de Olid there to seize the country for him, but that faithful lieutenant, doubtless in imitation of his chief, seemed to be bent upon setting up an independent principality for himself. Cortés had already sent one expedition under a certain Francisco de Las Casas to check Olid, but, hearing nothing from him, resolved to lead another in person, leaving his new government in charge of the four treasury officers, Estrada, Albornoz, Chirinos, and Salazar.¹²

It was an odd arrangement, and one which shows that Cortés must have been in a most pressing hurry to get away. It is hardly conceivable that he could have expected it to work. Estrada, the treasurer, and Albornoz, the accountant—so went the plan—were to have first try at the government, and in case it proved too much for them they were to be superseded by the remaining two officers, Chirinos and Salazar. Nothing was ever better calculated immediately to set the whole colony by the ears.

¹¹ Cortés to Charles V, 1524, in D.I.I., XII, 277–285.

¹² These four were respectively treasurer, accountant, overseer, and factor. Their duties were to collect and forward the King's revenue, and, in this case, to advise Cortés in the government. They had been appointed by a royal cédula of Oct. 15, 1522 (D.I.I., XXVI, 65–68). For a brief description of their functions see H. I. Priestley, *José de Gálvez*, 78–79.

The story can be merely touched upon here. As was to be expected, Cortés was hardly out of town before Chirinos and Salazar overtook him with scandalous tales of the misbehavior of Estrada and Alborno. He sent them back with orders to assist Estrada and Alborno in the government, but this did not suit their design. By a judicious change in the order they expelled Estrada and Alborno and set themselves up as sole rulers of New Spain. The prolonged absence of Cortés gave them an unparalleled opportunity for graft. They easily got together a following from among the numerous malcontents of the city. Among these they distributed the encomiendas of the absent Cortesians, and proceeded to rule with a high and heavy hand. They even disposed of Cortés himself by publishing a report of his death.

This usurpation bore most heavily upon the natives. Their new masters, well knowing that their tenure was short, wasted no time in accumulating wealth in the speediest way possible, which was to squeeze the natives for all they were worth.¹³

Cortés was very much alive, however, and turned up again in May, 1526, to the confusion of the usurpers. These, in fact, had been clapped in jail at the first news of the Governor's arrival at Vera Cruz. He set about repairing the damage caused by his absence, but had hardly begun when the royal *juez de residencia* arrived and at one stroke made him a private citizen again. But Cortés' star had not yet set. Luis Ponce de León, the *juez de residencia*, had been in Mexico but a short time when he suddenly died, and Cortés was king again for a space.¹⁴

¹³ These incredible two years in Mexico are well documented. For Cortés' side see the memorial of Juan de Ortega, *et al.*, to Charles V, Feb. 20, 1526, in Cortés, *Cartas*, 341-350; and his own account in his letter to Charles V, Sept. 11, 1526, *Cartas*, 369-376. On the other side, see Diego de Ocaña to the Council of the Indies, Sept. 17, 1526, *Cartas*, 351-367; Rodrigo de Alborno to Charles V, Dec. 15, 1525, in D.I.I., XIII, 45-84, and included in the appendix to this volume.

¹⁴ There were not lacking in Cortés' day, or in our own, for that matter, those who have thought this death and the earlier one of Francisco de Garay much too opportune to have been entirely accidental. The circum-

Ponce de León, before his death, had assigned his commission to his companion, the aged inquisitor, Marcos de Aguilar, but Aguilar's health was too feeble for him to take any active part in the government, although Cortés most obediently turned over all of his heavy duties to him. Cortés may have recognized the absurdity of putting upon this sick old man the very arduous task of keeping order in the turbulent colony, but he was nothing if not obedient. Aguilar could not but restore Cortés to his post as Captain-General, in which action he was seconded by the treasurer, Estrada.¹⁵

The arguments of Cortés against the abolition of the encomienda had borne fruit at Court. At least, there is no evidence that any attempt was made to enforce the cédula of June 26, 1523. He was even granted his huge estate with 23,000 Indians, and he was left in charge of the administration of the Indians and the distribution of encomiendas, although he might have been deprived of these offices if Ponce de León had lived. The feeling against Cortés at Court is well illustrated by Ponce de León's instructions.

Cortés, complained the Emperor, had been ordered not to make any distribution of the Indians in New Spain, because the encomienda had brought about the diminution of the island population and loss of revenue. But he had not only not executed this order, but had even kept it secret, and had distributed all the peaceful Indians among his men until their permanent disposition should be provided for, and they were being used in building houses, supplying the Spaniards with food, and bringing gold from the mines. The Governor had also said that it was

stances attending that of Ponce de León were particularly suspicious, but nothing was ever proved against Cortés, although his many enemies left no stone unturned to discredit him. It hardly seems necessary to attribute Ponce's death to poison. Rather would it have been a miracle if the old man had survived the long voyage across the Atlantic in a crazy tub, with bad food and worse water. See Luis González Obregón, *Los Precursores de la Independencia Mexicana*, 40-57, 108-126.

¹⁵ Alonso de Estrada to Charles V, Sept. 20, 1526, in D.I.I., XIII, 84-86.

impossible to collect tribute from the natives, and that it would be preferable for the Crown to take its fifth from the *encomenderos*. Others, however, had said that it could be collected without difficulty. And so on.

Ponce de León was to confer with Cortés and the religious on this question and on the best way to convert the natives to the Holy Catholic Faith, "for their good treatment and maintenance in justice, and our own service and profit." They were to decide whether it would be better for the Indians to remain in *encomienda* and serve the Spaniards, or whether it would be better for them to be given as vassals, like those held by the nobles of Castile, paying the Crown such tribute "as you think can be imposed upon them." All this, naturally, was to be submitted to the Court for final decision.¹⁶

So, for the time being, the Court had capitulated on the *encomienda* question. Cortés went on with his own ideas concerning care of the Indians.

The country—he wrote—is somewhat fatigued by the recent disturbances, but with the friendship and good treatment of the Indians, which I always strive to maintain, it will be restored, God willing, for the Indians, although they have necessarily received some vexations from our people because of the change of masters, are multiplying and increasing so rapidly that it seems there are more natives now than when I first came to these parts. The religious . . . are doing much good, especially among the children of the *caciques*. The Christian religion is being so well planted that your Majesty owes many thanks to God for it.¹⁷

Cortés' ordinances for the government of the Indians were not exceptional. The Indians were told that they were to be taught in the Holy Catholic Faith, that they were to provide food for the Spaniards to whom they had been assigned, that they were to work on their farms, serve them, etc. The *encomendero* was not to be allowed to remove any woman, or any child under twelve, from the native towns for any reason whatever. The

¹⁶ Instructions of Charles V to Luis Ponce de León, his *juez de residencia* in New Spain, Nov. 4, 1525, in D. I. U., IX, 214-226.

¹⁷ Cortés to Charles V, Sept. 11, 1526, in Cortés, *Cartas*, 369-376.

Indians on repartimiento were to be checked before a lieutenant of the Governor going and coming, and were to have thirty days' rest between repartimientos. They were not to be taken out to work before sunrise or brought back after sunset, and were to have an hour's rest at noon. Their encomenderos were charged to do away with idolatry in their villages, and to build churches on their encomiendas within six months. They could not be ordered out on repartimiento by anyone except a deputy of the Governor. They were assured a wage from their encomenderos of half a gold peso a year for their services.¹⁸

On the other hand, his ordinances for the government of the Spaniards, presumably issued at the same time, go far beyond the Laws of Burgos in their protection of the Indians. Every encomendero was obliged to do away with idols, and forbid their use. They were to forbid the practice of human sacrifice. A house of prayer or a church was to be built on every encomienda. The encomenderos were obliged to bring all male children of the caciques to the monasteries to be taught. Where there were no monasteries, the alcalde or regidor of each town was to hire qualified persons to teach them. Every encomendero was to maintain a priest at his own expense to teach the Indians, except where the encomiendas were too small, in which case two or three adjoining encomiendas were to support one in common. The encomendero could demand no gold of his Indians. Title to an encomienda could be proved only by eight years of residence upon it. Cortés took it upon himself to petition his Majesty to grant the encomiendas for life and for the life of one heir, removal to be only in case of crime. The encomenderos were to send for their wives, if they had them, and, if not, they were obliged to

¹⁸ Ordinances of Cortés for the government of the Indians, in D. I. I., XXVI, 163-170. There has been some confusion in the use of the two terms of *encomienda* and *repartimiento*. The former has been defined in the frontispiece. It was the permanent assignment of the Indians of a given locality to the tutelage and overlordship of some Spaniard. The *repartimiento*, as here, was the assignment of Indians to some specific task for some limited period.

marry within eighteen months. Also they were to have houses built and inhabited on their lands within eighteen months.¹⁹

Some of the provisions he made for the government of conquered territory went farther in the protection of the natives. For instance, in his instructions to his kinsman, Francisco Cortés, for the government of Colima, Francisco was to see to it that any Spaniard harming a native was to give redress, to the satisfaction of the native.²⁰ This unusual step may have been taken because of the warlike and dangerous character of the tribes of Jalisco, but it was a long advance over Spanish practice in the islands, which was to exterminate or enslave all natives who showed any spirit whatever.

Not that slave taking was a thing of the past—far from it! Prisoners of war were regularly and legally made slaves, and a constant supply of slaves was necessary for the working of the mines. As long as the wars of conquest lasted there was no lack, as Cortés had suggested, but now that the country was in a fair way toward complete pacification, the supply threatened to run short—hence the abuse of *indios de rescate*, slaves acquired by purchase.

We have a long letter of the accountant, Rodrigo de Albornoz, in which he describes the manner of acquiring slaves. It should be borne in mind that it was written while Cortés was off in Honduras and New Spain was in the hands of Chirinos and Salazar.

The Indians, said Albornoz, seemed to hold slavery as a thing of no consequence among themselves. A man might gamble away his freedom, or sell himself to pay a debt, with little regret for his lost freedom. But then they did not use each other in the killing work of gold mining. Nothing was easier for an enterprising Spaniard to do than to descend upon a village with

¹⁹ Ordinances of Cortés for the government of the Spaniards, Mexico, Mar. 20, 1524, in D. I. I., XXVI, 135-148.

²⁰ Instructions of Hernán Cortés to Francisco Cortés, his lieutenant in the town of Colima, 1524, in D. I. I., XXVI, 149-159.

a demand for tribute. The Indians would protest that they had no gold. Would he accept instead a few slaves? He would. So the slaves were brought forth and duly branded, and were sent off to the mines chained together. Sometimes, indeed, the cacique might be running low in slaves, but he had merely to bring out some of his own tribesmen, or his own kin, for that matter, and force these unfortunates to swear that they were legitimate slaves, to satisfy the demand for tribute.²¹

The buying of *indios de rescate* was an old practice. Cortés made some attempt to regulate its abuse and prevent the enslavement of free Indians. His instructions for the government of Trujillo include the method to be followed in making slaves.

Since his Majesty has given permission to all the citizens of New Spain to buy slaves from the native lords of the country, you will issue licenses to those who have Indian towns and their lords in encomienda to buy slaves from those lords . . . in any quantity you may see fit . . .

You will issue these licenses with the proviso that all slaves so acquired are to be brought before you and your notary, and in the presence of the lord who is selling them you will have them asked what method they formerly pursued among themselves in making slaves. Then you will take the said slaves apart, their lord not being present, and you will learn from them how and why they were made slaves. And if it appears that they are slaves according to their custom, they are to be accorded to the person buying them . . . and you will brand them with the iron of his Majesty, which is to be kept in the strongbox of the cabildo . . . ²²

Charles continued his efforts to ameliorate the lot of the Indians. In November, 1526, he addressed a cédula to Ponce de León, the news of whose death had not yet reached Spain, advising him that he was not to tolerate the taking or branding of slaves without due process of law. He was not to allow Indians to be brought to Spain, save only certain children of caciques to be sent there for education.²³

²¹ Rodrigo de Albornoz to Charles V, Dec. 15, 1525, in D. I. I., XIII, 45-80. Included in the appendix to this volume.

²² Cortés to Hernando de Saavedra, his lieutenant . . . at Trujillo and La Natividad de Nuestra Señora, 1525, in D.I.I., XXVI, 185-194.

²³ Cédula of Charles V to Luis Ponce de León, his juez de residencia in New Spain, Nov. 9, 1526, in Puga, *Cedulario*, I, 31-33.

These Indian children were never sent, says Torquemada, because their families had somehow got the notion that they were going to be sold into slavery, and they raised such an outcry that the project had to be abandoned and an explanation sent to the Empress, the author of the scheme.²⁴

The government was making prodigious efforts to satisfy reformers and colonists both. In a general order governing the conduct of exploring expeditions it was provided that each expedition was to carry along two religious who were to have authority in all matters pertaining to the Indians. Score one for the reformers. But, went on the order, if it was thought necessary for the conversion of the Indians, they might be given in encomienda, with the consent of the religious. Acts of violence committed by Spaniards against the natives were to be investigated by royal officers throughout the Indies, and the culprits punished. The officers were to set at liberty slaves who had been taken unjustly. These were to be treated as free men; they were not to be given an excessive amount of work, or sent to the mines against their will. The Indians of the discovered territories were to be persuaded to accept the Spanish rule by peaceful means, if possible. They were to be taught good habits and prevented from eating human flesh and indulging in other disgusting vices. They were only to be made slaves in case of resistance. They were not to be forced against their will to go to the pearl fisheries, mines, or plantations. All of these things were to be done "to prevent the past harm and difficulties, and to provide what is best for the service of God and the King."²⁵

Giving authority over the natives to the religious was a favorite measure with the reformers, and became a settled policy of the Crown. It was in line with the earlier idea of having a "protector" for the Indians. Among other measures, the Court reestablished the office of protector and added its duties to the

²⁴ Torquemada, *Monarchia Indiana*, III, 262.

²⁵ General cédula of Charles V, Nov. 17, 1526, in D.I.U., IX, 268-280.

new Bishop of Mexico, Juan de Zumárraga. As with Las Casas, the new protector's powers were vague. He was to see that the Indians were well treated and taught in the Holy Catholic Faith, etc. With the help of the audiencia he was to enforce all the orders for the protection of the Indians, and the president and oidores of the audiencia were commanded to give him in his task all the help and favor he might need.²⁶ This anomalous office did little but stir up antagonisms between the civil and religious branches, and protected the Indians not at all.

To return—Cortés was completely out at Court. The death of the *juez de residencia* and a long complaint from the accountant, Rodrigo de Albornoz, brought the appointment of the treasurer, Estrada, as governor in 1527. Cortés could not bring himself to accept this exaltation of an underling over him and quarreled bitterly with the new governor, who exiled him from the city of Mexico. This was too much for the conqueror's proud spirit, and he resolved to go to Court and plead his own case before the Emperor. He left Mexico in the spring of 1528.

Estrada's appointment was only temporary. It was high time to appoint a regular government for the new province, and in 1528 an audiencia was sent out under the presidency of Nuño de Guzmán. This unfortunate choice bore heavily upon the natives. Guzmán could hardly have been the bloodthirsty monster that he is painted, but his fierce and turbulent spirit was the last element needed to bring about chaos in New Spain.

²⁶ Cédula of Charles V to Juan de Zumárraga, Bishop of Mexico, Jan. 10, 1528, in Puga, *Cedulario*, I, 227.

CHAPTER VII

THE FIRST AUDIENCIA

The violent disagreement of the civil and ecclesiastical elements was reflected in the vacillating policy of the Crown. The Dominicans had had the advantage at Court from the time of Charles' accession. He may have seen in their opposition to the conquistadores a convenient means of checking the rampant ambitions of his captains. Piety and political interest were on the side of the Dominicans. On the other side were the revenues. However pious Charles might be—and he was a very pious man—his perennial squabbles with his neighbors were expensive and called for an increasing outlay in arms. So it would not do to smother the one source in the colonies which could furnish money. Then, too, in 1527 Cortés had sent Pedro de Alvarado to Spain, and that bold warrior served greatly to increase the credit of the colonists. The upshot of it was that the instructions of the new audiencia gave promise of a pleasanter era for the New World. Their tone is one of sweet reasonableness.

The audiencia, ran the instructions, was immediately to call a junta in Mexico City. It was to include the bishops of Tlascala and Mexico, the prior of the Dominican order and the guardian of the Franciscans, three religious from each of the two orders, and the president and members of the audiencia. They were to consider ways and means of reducing the native population to Christianity as soon as possible, and of distributing lands and Indians among the conquerors in an equitable fashion. The King had been convinced by the arguments of Hernán Cortés and others that the conquerors should be rewarded by grants of encomiendas in perpetuity, with preference given to

those who intended to establish themselves permanently in the Indies. The capital towns, however, and those necessary to the royal service, together with their inhabitants, were to be reserved for the Crown, and a reasonable portion of Indians and land was to be set aside for the use of future settlers. The rest of the towns were to be distributed among the conquerors and settlers according to the quality of their persons and services—quality of person here meaning rank.

The president and oidores of the audiencia were forbidden to share directly or indirectly in this distribution, as they had been assigned competent salaries to prevent any such necessity. But each of them might have ten Indians for his personal household service only.¹

A second instruction of the same date provided that all encomiendas becoming vacant during the investigation of the junta were to be given preferably to married men, as it was thought these would remain longer and treat the Indians better.²

A long special instruction to Guzmán contains a paragraph forbidding the Indians to have arms or horses.³

The new audiencia arrived in Mexico in December, 1528. It had originally consisted of five members: the president, Nuño de Guzmán, and four oidores. Two of the latter, however, had died on the voyage from Spain, leaving New Spain in the hands of Guzmán and the two survivors, Diego Delgadillo and Juan Ortiz de Matienzo. These three, like the two worthies who had looted the colony in 1524–26, seem to have had but one dominant idea, to grab everything in sight and convert it into cash. Cortés was away in Spain and his party in New Spain was without effective leadership. The only impediment in the way of the

¹ Instructions of Charles V to the Audiencia of Mexico, Apr. 5, 1528, in Puga, *Cedulario*, I, 47–53.

² Cédula of Charles V to the Audiencia of Mexico, Apr. 5, 1528, in Puga, *Cedulario*, I, 54; Solorzano, *Política Indiana*, I, 257.

³ Instructions of Charles V to Nuño de Guzmán, President of the Audiencia of Mexico, Apr. 5, 1528, in Puga, *Cedulario*, I, 62–83.

new dictators was the bishop-elect of Mexico, Juan de Zumárraga, whose title of protector gave him some shadowy authority over the operations of Guzmán and his companions.⁴

Zumárraga took his responsibility seriously and made a vigorous attempt to secure the enforcement of the numerous laws restricting the exploitation of the Indians. Unfortunately, his commission was so ill-defined and it so evidently overlapped the civil authority that his interference in the government led to nothing but frequent and violent clashes with the audiencia. Violence and piety were commonly associated in those days.

Their quarrel led to explosions from the Franciscans and repressive measures on the part of the government. Guzmán refused to recognize Zumárraga's authority as protector, while the bishop thundered anathemas from the pulpit and granted asylum to the president's enemies. Guzmán relieved his feelings in a 92-page letter to the King.

His work in New Spain, he complained, was like to be barren, and all because of the excessive zeal of Zumárraga, who had rushed off to the Indies without waiting for his consecration and hence had no more authority than any common friar. Guzmán had held an interrogatory of the principal men of Mexico on the unparalleled conduct of Zumárraga and his Franciscans, and these witnesses were unanimous in their condemnation of their activities. In the first place, they charged that Zumárraga was working for Cortés and his faction.⁵

⁴ It may be said in exoneration of Guzmán and the first audiencia that they may have thought that their mission in New Spain was to recover it for the Crown, as the actions of Cortés had made the Court notoriously suspicious of him. It is certain that Guzmán's actions during the period of the first audiencia did not bring about his immediate disgrace. On the contrary, he was allowed to complete his conquest of New Galicia and remained there as governor for some years. The less fortunate oidores ended their days in poverty and disfavor in Spain.

⁵ Cortés was very friendly with the Franciscans and had brought them to New Spain rather than the Dominicans, whose agitation against the colonists in Española had given them a bad name among the conquistadores. But it may be doubted if Zumárraga was a henchman of Cortés. In fact, he blamed Cortés for the factions in Mexico, saying that Cortés had shown

Furthermore, Zumárraga had published that he alone had the power of adjusting the tributes paid by the natives and that the natives owed him obedience as protector. The result had been that the natives no longer obeyed their masters or the civil officers, but ran to the bishop with complaints.

Then, Zumárraga himself was using the Indians in his personal service, while the Franciscan friars were holding most of the sons of the caciques in their monasteries on the pretext of teaching them, but their real purpose was to teach these boys to obey and reverence them.

These friars were in the habit of punishing the Indians with great cruelty for slight cause. For example, drunkenness and absence from mass were punished by irons, hanging by the arms, flogging, and the stocks. The friars, too, were loose in their relations with the Indian women. One friar of Cuernavaca was reported to have got as many as eight Indian girls with child. The friars were sending boys out to preach before they had been properly taught. They were building a sumptuous monastery at Guaxoango and were using the Indians in its construction. They had sent Indians for materials as far as Vera Cruz and some of these carriers had died of it. They were using also a great many Indians in the building of an aqueduct at the same place, and had failed to obtain a license from the audiencia.

Fray Toribio de Benevente—the famous Motolinía—was reported to have sent to Castile the sum of 700 *castellanos de oro*, and, since he had no estate, he must have exorted the money from the Indians.

Thus the first half of the letter. The second half is devoted to a complete whitewashing of Guzmán and his two associates.⁶

partiality for his own men against the Velázquez men who had come with Garay, and that Cortés had seized a great part of the booty. See Zumárraga to Charles V, Aug. 27, 1529, in García Icazbalceta, *Don Fray Juan de Zumárraga*, Appendix, 3, and the appendix to this volume.

⁶ Accusation of Nuño de Guzmán against Fray Juan de Zumárraga, Apr. 29, 1529, in D.I.I., XL, 468-560.

If this is all that Guzmán could establish against Zumárraga in ninety-two pages, it can hardly be argued that the bishop was greatly abusing his powers. Guzmán's case was further weakened by the rigid censorship he thought necessary to establish at Vera Cruz in order to prevent any adverse criticism from reaching Spain. Zumárraga made several attempts to get a letter through, and finally had to make the painful journey to the coast himself and smuggle a letter to a sailor, who hid it in a barrel of oil until it was beyond the reach of the censor. This letter is a thorough-going indictment of Guzmán's government, and, in spite of its heat, gives a circumstantial and convincing picture of those troublous days in New Spain. Its great length prohibits its inclusion here, but those parts pertinent to the fate of the Indians have been included in the appendix to this volume.

Guzmán and the two oidores, wrote the bishop, were using Indians to the number of a hundred thousand in their personal service, not, indeed, in their own name, but through the medium of third parties. They were exacting tribute from them in kind and selling it through agents. These Indians were serving them publicly and were furnishing them with slaves for use in the mines. Guzmán and the oidores were also building sumptuous palaces for themselves with the labor of the Indians, as well as business properties of great value. One such was a mill which Guzmán was putting up in Atacubaya, and which had forced the Indians to abandon the town, because the water they needed for irrigation was now all taken by the mill.

The audiencia had not only distributed encomiendas among the conquerors, but had given them to their own followers regardless of merit, including the four treasury officers, Albornoz, Estrada, Chirinos, and Salazar.

The caciques of Tatelulco had recently come to the bishop weeping bitterly, saying that the president and oidores had demanded their more handsome daughters, sisters, and female relatives. One of them told the bishop that the interpreter,

Pilar, had demanded eight handsome girls for the president's personal use. The bishop had counselled him to refuse, whereupon Guzmán had threatened to hang the cacique.

When, continued the bishop, Nuño de Guzmán had first come as governor of Pánuco he gave a general license to all the Spaniards there to take twenty to thirty slaves apiece for sale in the islands. Merchants and traders got wind of this and flocked to Pánuco to take part in the profitable business. Nine or ten thousand slaves had been taken in this manner, had been branded and shipped to the islands, and the whole province had become a desert, because the natives had abandoned their villages and fled to the wilderness. The bishop knew of twenty-one shiploads of slaves that had been so taken. Three of these ships had sunk, while the others had to be closely guarded in order to prevent the natives from jumping overboard. In the islands these slaves were dying of want and disease.

Later, when Guzmán came to Mexico as president of the audiencia, he gathered together a great number of Indians and sent them off to Pánuco to be branded and sold as slaves.

Now he was distributing vacant encomiendas among his servants, who were gambling with them, while honest married conquerors were in want.

The Indians had come to the bishop in such numbers to complain of their wrongs that Guzmán had forbidden him to concern himself with their administration as provided for in his commission as protector, but would allow him only to teach the Indians like any other friar.

Zumárraga recommended several measures for the good of the colony. First, let the King appoint a governor, a man of such standing that he would be feared and respected, as the present audiencia were unworthy of their trust. Then let the King provide a measure which was necessary for the peace of the country, the perpetual encomienda. If the encomienda could be given in perpetuity a man would have some assurance that he

would not lose his livelihood with every change of administration. This daily change of masters was having a most harmful effect upon the Indians, who served grudgingly and without love, thinking that they should save what they had for their next master; but with the perpetual encomienda they would settle down.

The present rulers of New Spain were wielding a power more absolute than that of the Emperor himself, giving and removing Indians, who were the wealth of the country, and allowing no opposition. The Spanish subjects were so oppressed that they dared not speak out for fear of losing their Indians. Such would not be the case if the Indians were held in perpetuity. Then, too, the Spaniards would have a greater regard for the good of their Indians, and would relieve them of work in order to win their regard and induce them to stay. Also they would plant vineyards and olive groves and make other improvements to relieve their vassals of tribute. Thus the royal patrimony would be increased and the royal conscience relieved.

Under the present system no one dared plant a single thing, fearing that the next day it might be taken from him. His Majesty should by all means remedy this situation in order to prevent a recurrence of what happened in Española, where, when the perpetual encomienda was finally granted, there were no longer any Indians left to save.

One of the worst abuses of the Indians was due to the numbers of Spanish vagabonds traveling about the land and living on the natives' hospitality. They were in the habit of keeping two or three native mistresses and as many Indian servants. These men were principally responsible for the crimes and violence against the Indians, and the Indians dared not complain of them.

Spaniards traveling with Indian carriers used them very badly. They treated them like pack animals and did not even feed them, and the Indians were dying on the road. This happened principally among the gold miners, who wished to save

their slaves for mining and thus made the free Indians of the encomiendas do the carrying.

In the province of Tepeaca, held in encomienda by Pero Almindéz Chirinos, the King's overseer, more than three thousand free Indians had died on the road while carrying supplies to the mines. Everywhere that carriers were used there had been many deaths among them. Spaniards who had been in New Spain since the beginning were saying that the natives were only half as numerous as at first—not that they had all been killed by being used as carriers, because carriers were used before the Spaniards came. But the Spaniards loaded them so immoderately that they were reducing them very rapidly. This abuse, by the way, observed the bishop, was one of the principal causes of the ruin of the islands.

The persecution of priests and friars by Guzmán was worse than the persecutions of Herod and Diocletian. Why, they were telling the Indians to abuse the boys going out to preach, and that they were not to obey the friars.

The protector should be given power to act against those who were abusing their Indian slaves, as these were treated worse than dogs.

Guzmán was planning to get rid of Cortés' adherents by sending them out to fight against the Chichimecas, so that if Cortés should return he might be arrested without opposition. If this should happen the Indians would rise and kill all the Christians. In short, the country was going to the dogs.⁷

There is a curious exchange of rôles between the Dominicans and Franciscans from the days in Española when the former were agitating in favor of the natives to the days of the first audiencia in New Spain when the protection of the Indians was in the hands of the Franciscans. In the islands the latter had been on the moderate side and opposed to the radical innovations

⁷ Zumárraga to Charles V, Aug. 27, 1529, in García Icazbalceta, *Don Fray Juan de Zumárraga*, Appendix, 1-42, and appendix to this volume.

of the Dominicans. For their moderation in the islands the Franciscans were chosen by Cortés to undertake the evangelization of New Spain. But once there and made responsible for the welfare of the natives, they became as zealous in their defense as ever the Dominicans had been in Española. The Dominicans in New Spain, on the other hand, were forced into the arms of the anti-Cortesian party and thus became in a way the supporters of the most unabashed brigandage and tyranny.⁸

To the credit of both orders, they composed their differences sufficiently to continue their fight for the betterment of the Indians. Their fundamental difference, however, on the *encomienda* question, was not patched up for many years. The Franciscans, such as Zumárraga, were for using it as a means of Christianizing the Indians. The Dominicans, on the other hand, were for its total abolition and the conversion of the Indians by persuasion alone. The merits of the controversy are difficult to judge. From a purely theoretical point of view, given the premises, the Dominicans were in the right, while the Franciscans had the better of it practically.

With the arrival of Cortés in Spain in May, 1528, the Court began to lean toward his party. The first effect was a *cédula* ordering the audiencia of Mexico to withhold two-thirds of the salaries of the four officers, Albornoz, Estrada, Chirinos, and Salazar if it was found that they had been given any Indians in *encomienda*.⁹

In this year of 1528 the Indian question engaged the Court's attention to a remarkable extent. It cannot be charged that the Spanish Court, once awakened to its responsibility in the matter, failed through lack of laws. If anything, the balance dipped the other way, and the mass of legislation threatened to smother the issue.

⁸ On this see the letter of the oidor Salmerón of the second audiencia to the Council of the Indies, Mar. 30, 1531, in D.I.I., XIII, 195-205, and cited below.

⁹ *Cédula* of Charles V to the Audiencia of Mexico, June 5, 1528, in Puga, *Cedulario*, I, 110-112.

Another effort was made to license and control enslaving, the abuses of which had been reported by the accountant, Albornoz. All Spaniards, ran the new law, claiming ownership of Indian slaves, were required to bring them before a royal officer for registry and examination. Those discovered to be held unjustly were to be set at liberty forthwith.¹⁰ At the same time all those proposing to go on slave raids were to obtain a royal license, on pain of death.¹¹ A third *cédula* directed that such licenses must specify the particular rebellious natives to be enslaved, since the Spaniards had been in the habit of taking peaceful natives along with the others.¹²

The most minute instructions regarding the treatment of the Indians were sent to the new *audiencia* in Mexico, and, as was the new habit, to the two bishops and the priors of the two monastic orders. First the use of carriers was regulated. No Indian was to be forced to carry any burden against his will, nor was he to be used otherwise, except for pay. But the Indians might be required to carry their tributes to their *encomenderos* up to twenty leagues, not, however, to the mines, unless they were paid for it. They might not be used to carry goods for sale to the mines.

The Court had been informed that many persons having Indians in *encomienda* carried off women to the mines and kept them there to make bread for the slaves, and to serve in their houses, keeping them away from their husbands and children. This practice was forbidden, even though the women should say they went of their own accord.

It was further ordered that the *encomienda* Indians were not to be used to help the slaves at the mines; nor were they to be

¹⁰ General *cédula* of Charles V to all royal officers of the Indies, Sept. 19, 1528, in D.I.U., IX, 368-371.

¹¹ *Cédula* of Charles V to the Audiencia of Mexico, the bishops of Mexico and Tlascala, etc., Sept. 19, 1528, *ibid.*, 372-374.

¹² *Cédula* of Charles V to the Audiencia of Santo Domingo, Nov. 20, 1528, in Puga, *Cedulario*, I, 116-119; D.I.U., IX, 383-386.

used in building houses to sell; nor were they to be used in transporting supplies from the seaports. They might, however, be hired of their own free will to unload ships, provided that they were not required to carry the cargo to a point more than half a league distant.

It had been reported that the Spaniards had been demanding a gold tribute of the Indians, and had been seizing and torturing them and frightening them into giving slaves to satisfy the demand, these slaves being in some cases the Indians' own children. Thenceforth no person was to take any gold from the Indians except what they would give of their own accord.

During the season of planting and cultivating the Indians were not to be removed from their farms.

Certain Spaniards, it had been reported, had gone to that country not to settle, but to live at their ease by robbing the natives. They were in the habit of going about among them, taking whatever they needed and committing many outrages. Such vagabonds were to be expelled from the country, and thenceforth no Spaniard was to demand anything of the natives which they would not give of their own accord.

The natives who had been removed from New Spain to the islands had suffered great hardship and death, and had thus conceived a hatred for the Spaniards, and kept their women and children from contact with them. From then on no one was to dare remove any natives from New Spain, even though it was claimed that they were slaves.¹³

Charles had surrendered temporarily on the encomienda question, but the clamor of the theologians at home and the reports of abuses in the colonies gave him a pretext for reopening the discussion. Calling a junta together in Barcelona in 1529, he requested their opinion on the legality of using Indians in forced labor. The answer of the junta, as was to have been expected, reflected his own convictions.

¹³ Cédula of Charles V to the Audiencia of Mexico, etc., Dec. 4, 1528, in D.I.U., IX, 386-399.

Non-resisting Indians, they declared, were entirely free, and were not obliged to perform personal services more than any other subjects of Spain, and were only obliged to pay tithes to the Church and tributes to his Majesty according to the quality and value of their lands. It was illegal to give them in *encomienda*, not only on account of the ill treatment they were receiving, but also because they were free men.

Until they should be instructed in the Holy Catholic Faith and should adopt Spanish customs and learn to live in an orderly manner, the King could not give them to others perpetually or temporarily, "since experience has shown that the laws made in their favor have been kept by no one; nor is the pretext of looking out for their good a sufficient reason for the evil treatment to which they have been subjected by others than the King."¹⁴

Charles may not have been acting in bad faith when he granted the perpetual *encomienda* to his conquerors in his *cédula* of April 5, 1528, cited above, but clearly by the time of the Barcelona junta he had made up his mind to destroy the system which he had been forced to accept. This will be evident in the instructions to the second *audiencia* in 1530. But in 1529 the colonists were powerful enough to prevent the Barcelona resolutions from becoming law—Cortés, it will be remembered, was at Court during this period.

If such laws were passed, argued the colonists on this occasion—and every time the matter came up—the colony would inevitably be destroyed. And was it just to ruin all because in some cases the Indians had been abused? The great majority of the colonists, they urged, took pains to teach the Indians and conserve them, treating them like their own children. Clearly the Indians would lose their chance of salvation if they were removed from the *encomiendas*, for they would have no one to teach them in the Holy Catholic Faith, and there would be no one to teach

¹⁴ Herrera, *Historia General*, II, 148–151.

them Christian habits, etc. And, anyway, the Indians of the encomiendas were no worse off than the vassals of the lords of Castile.¹⁵

Charles was to be absent from Spain for the next four years, but the stream of ordinances kept flowing to the colony. The interpreters, for example, had a good opportunity for graft in a country where most of the business had to pass through their hands. The Queen had learned that they were using their borrowed authority to extort gifts from the Indians, and a *cédula* was issued forbidding them to demand or receive for themselves, or anyone else, jewels, clothing, women, food, or anything whatever.¹⁶

Guzmán had accused the Franciscans of using the Indians in personal services. The Queen instructed him that the Indian women were to be allowed to come to the monasteries and bake for their children, provided they did so of their own accord.¹⁷

The colonists had been making money by letting out the Indians of their encomiendas, which resulted in great harm to the Indians. The Queen next forbade this practice.¹⁸

It also irritated the monarchs to have the colonists continually shelving inconvenient laws under the old formula of *obedezco pero no cumplo*, while they sent them back to Court for reconsideration. Thenceforth, ordered the Queen, any law relating to the Indians was to be obeyed *and* carried out.¹⁹

A law prescribing the registration and examination of slaves had already been issued. Now it was further ordered that all

¹⁵ Herrera, *Historia General*, II, 151.

¹⁶ *Cédula* of the Queen to the Audiencia of New Spain, Aug. 24, 1529, in Puga, *Cedulario*, I, 140.

¹⁷ *Cédula* of the Queen to the Audiencia of New Spain, Aug. 10, 1529, in D.I.U., IX, 423-424.

¹⁸ *Cédula* of the Queen to the Audiencia of New Spain, Aug. 10, 1529, in Puga, *Cedulario*, I, 136; Torquemada, *Monarchia Indiana*, III, 256; D.I.U., IX, 425.

¹⁹ *Cédula* of the Queen to the Audiencia of New Spain, Aug. 24, 1529, in Puga, *Cedulario*, I, 139; Torquemada, *Monarchia Indiana*, III, 257; D.I.U., IX, 426-428.

slaves not brought before the royal officers for such registration and examination were forthwith declared to be free, that is, they were to have the same liberty as the others! The branding iron, too, was from then on to be kept in a strongbox with two keys, one of which was to be kept in the custody of Bishop Zumárraga.²⁰

Some inkling of the state of affairs in New Spain had leaked through Guzmán's censorship even before the bishop's letter was received at Court. The royal correspondence began to take on a sharper tone. The Queen had learned, says one *cédula*, that Guzmán, Matienzo, and Delgadillo had been using Indians in the mines and plantations, and her treasury officers were ordered to withhold their salaries in case this were the truth.²¹

The party of Cortés was gaining ground at Court, in spite of the Barcelona junta. A *cédula* confirmed the granting of the perpetual encomienda to the conquerors of New Spain:

In view of the information and opinions of the religious and our governor, Hernán Cortés, and many others, and with the approval of our Council, it being our will to favor the conquerors and settlers of New Spain, especially those intending to remain there, we have agreed that a permanent distribution of the said Indians be made

So Guzmán and the audiencia were to make this distribution, but were to bear in mind that they were to have no part in it beyond the ten Indians allowed them for their household service. Moreover, they were to relinquish what Indians they had already taken.²²

The growing protest from New Spain warned the Court that the audiencia had gone too far in their suppression of the conquistador party. The letter of Zumárraga decided their downfall, and steps were taken to put New Spain under the permanent

²⁰ *Cédula* of the Queen to the Audiencia of Mexico, etc., Aug. 24, 1529, in D.I.U., IX, 434-439.

²¹ *Cédula* of the Queen to the royal officers of New Spain, Oct. 8, 1529, in D.I.U., IX, 439-440.

²² *Cédula* of the Queen to the Audiencia of Mexico, Oct. 8, 1529, in D.I.U., IX, 444-447.

government of a viceroy. The man chosen for this post was Antonio de Mendoza, but, as he was not ready to accept it, a second audiencia was chosen to rule *ad interim* under the presidency of the bishop of Santo Domingo, Sebastián Ramírez de Fuenleal, who had been serving as president of the audiencia of Santo Domingo since shortly after the Jeronymite régime.

The first audiencia of Mexico had been a failure from every point of view. Too hastily chosen, these men were mistaken in their conception of their duties, while their open pillaging of the country they had been sent to govern and their fierce suppression of all opposition showed them to be the sort of men that had been the curse of Spanish colonial administration since the beginning. The fate of the Indians under such a government can be more easily imagined than described. The documents all repeat the same story of extortion, oppression, and lawlessness. There was nothing to be hoped for either colonist or Indian until stability should be attained, and this was the problem facing the next administration.

CHAPTER VIII

UNDERMINING THE ENCOMIENDA

The confusing dualism in the treatment of the encomienda during this period goes beyond any rational policy. Charles had long ago made up his mind that it was a bad thing, but circumstances forced him into a devious and equivocal course. The wrong of keeping the Indians in bondage—but not the Negroes—was dinned at him continually. In all likelihood this consideration alone would not have persuaded him to abolish the encomienda if there had been no alternative by which the revenue would not suffer. What was of infinitely more importance than the liberty of the Indians was the possible establishment of powerful feudal estates in the New World far beyond the reach of royal discipline. The fierce struggle of the Catholic Monarchs with their unruly nobility had been an object lesson not easily forgotten, and here were Cortés and his lieutenants carving out principalities for themselves and showing every evidence of an independent and rebellious disposition. To check this Charles was willing to go far.

The appearance of Cortés at Court and his great favor with the Emperor offset for a time the accumulated dissatisfaction with which the encomienda was regarded and silenced the clamor of the abolitionists. Shortly thereafter, however, Charles left Spain, appointing his young queen, Isabel of Portugal, regent in his place, and, while there is nothing to show that she departed from the Emperor's policies, yet her many acts of humane legislation prove that the reformers had her ear and not Cortés' party.

The new audiencia was chosen with great care. Its president was Bishop Fuenleal of Santo Domingo; the four oidores were

Vasco de Quiroga, Alonso Maldonado, Francisco de Ceynos, and Juan de Salmerón, all lawyers of standing. Their appointment was made as early as April 5, 1530, but their instructions were not ready until July 12, and the audiencia did not sail until September 16, arriving in Mexico December 23, 1530.¹ They stopped by at Santo Domingo to pick up Fuenleal, but the aged bishop was very loath to undertake the ungrateful task of straightening out the very tangled affairs of New Spain, and did not join them until a year later, and then only after repeated urgings from Spain.²

The Court this time was determined to risk no such fiasco as the first audiencia had turned out to be, and poured out a stream of instructions to the new audiencia that fill eighty-five pages in Puga's *Cedulario*. The most dangerous task assigned to the new audiencia was the eradication of the encomienda and its substitution by a new centralized system. This dynamite, however, was prudently hidden in a secret instruction, the text of which is not available, but its import is readily deduced from the correspondence of the audiencia.

The new scheme, in brief, was to have the audiencia examine all the titles of the encomiendas and annul those which they should decide had been acquired by fraud. These, together with those which should become vacant, were to be incorporated in the Crown and divided into administrative districts called *corregimientos*, under magistrates called *corregidores*, who were salaried royal officers directly responsible to the Crown. The Indians in the *corregimiento* were to have the legal status of the Crown vassals of Castile and were to pay an analogous feudal due or tribute. The ousted encomenderos were to be compensated, if found worthy, by being made *corregidores*. If not, they might be made constables—*alguaciles*.

¹ Audiencia of Mexico to the Empress, Mar. 30, 1531, in Ternaux-Compans, *Voyages*, 2e série, V, 138.

² Salmerón to the Council of the Indies, Jan. 31, 1531, in D.I.L., XIII, 193; Aiton, *Antonio de Mendoza*, 22-24.

The whole plan is reminiscent of the system of Indian towns invented by Las Casas which was to have been established in Española by the Jeronymite Fathers. The corregidor, like the administrator of the old plan, was to have as his principal duty the education of the Indians under his charge, in which duty he was to have the assistance of a priest. His salary, like that of the priest and the constable, was to be deducted from the tribute of the Indians, the balance of the tribute going to the Crown. Any provisions which the officers might need—and only absolute necessities were to be commandeered—were to be charged against them and deducted from the tribute.

The corregidor was to ascertain from his Indians how much tribute their former encomenderos had been receiving from them, and he was to reduce this amount if he thought it excessive. He was also to spy upon his encomendero neighbors and report any transgressions of the law on their part; that is, if they were living apart from their encomiendas and working their Indians through overseers—*calpisques*; if they were otherwise mistreating their Indians; if they were extorting an immoderate tribute from them; if they were maintaining priests for religious instruction, etc.³

The Indians, said another instruction, were not to be punished for fighting, unless they used weapons. They were to be warned against bigamy and idolatry, and were only to be punished in case of persistence. On the other hand, the mistreatment of a native by a Spaniard was to be punished as a public crime. The Indians, of course, were not to be allowed to remain idle, but were to be persuaded to work on farms, or at trades, so as to accustom them to Spanish ways of life. Attendance at mass on Sundays was obligatory, as well as the observance of feast days, and the corregidor was to teach them proper deportment in church, among other things.

³ Instructions of the Queen to the corregidores of New Spain, in Puga, *Cedulario*, I, 217-219 (no date).

In order to convince the Indians that their Great White Father held them in the same esteem as the Spaniards, the corregidor was to appoint one Indian *alguacil* in every town. This also would serve to train them in Spanish ways of government. They were to be informed, moreover, that it was the King's will that they should enjoy their goods without interference or abuse by the Christians.⁴

The salaries for the new posts were not attractive. The corregidor was to receive from 320 to 380 pesos gold a year; the *alguacil* from 120 to 140; the priest from 150 to 170.⁵

The first instruction to the new audiencia is in effect an answer to Zumárraga's letter of August 27, 1529, in which he exposed the corruption of the first audiencia. Members of the audiencia, said the instruction, were forbidden to hold Indians directly or indirectly, and this was to apply to their servants and relatives. The Indians were to be paid for the work they had done for the old audiencia. The neglected census was to be completed. The new government was to cooperate with the protector, and they were to make a decided effort to suppress the slave traffic. The slave traffic among the Indians themselves, however, was to be dealt with according to reason and justice.

Their program included the education of the Indians in self-government. The audiencia, with this in mind, was to appoint Indian councilmen to serve equally with the Spaniards in the city governments. These Indians were to have a vote and were to be treated with respect by their Spanish colleagues. Moreover, every town was to have at least one Indian constable. This cooperation aimed to bring about greater cordiality between the two races, and to teach the Indians the practices of the Holy Catholic Faith.

⁴ Instructions to governors, corregidores, etc., of the Indies, July 12, 1530, in Puga, *Cedulario*, I, 203-216. It should be borne in mind that "Christian" and "Spaniard" were synonymous.

⁵ Audiencia of Mexico to the Empress, Mar. 30, 1531, in Ternaux-Compans, *Voyages*, 2e série, V, 130.

The Queen had been much distressed to learn that many of her subjects were living with Indian mistresses, and she enjoined the audiencia to abolish this practice—but as quietly as possible.

The peculations of the interpreters, as reported by Zumárraga, might be checked by requiring the use of two of them, each to give his testimony separately.

The first audiencia had condemned Cortés and Alvarado to the payment of heavy fines for gambling during the conquest. These fines were to be remitted, except for games in which there had been cheating or false dice.

The ever present fear of a native uprising is reflected in a new prohibition of arms, horses, and mules for the Indians, but they might still have such native arms as they needed for hunting.

One provision of these instructions goes so contrary to the spirit of the secret order for the abolition of the encomienda that it practically convicts the Crown of double-dealing toward the conquerors. In the census report the audiencia were to include such unconquered provinces as could be easily pacified so that they might be available for encomiendas for new settlers, but in every case the audiencia were to give preference to the original conquerors and first settlers.⁶

This could hardly have been mere vacillation, else why issue the secret instruction for the establishment of the corregimiento? If one may venture a speculation, the Crown was in a serious dilemma, and had decided for a policy of attrition, but carefully refrained from any precipitate action which might stir up organized opposition among the powerful class of encomenderos. These were to be cajoled into a feeling of false security while the ground was nibbled away from under them. The suspicious old warriors were not easily fooled, however, as will appear in the sequel.

⁶ Instructions of the Queen to the second Audiencia of Mexico, July 12, 1530, in Puga, *Cedulario*, I, 154-185.

Meanwhile, they did little to encourage the Crown to treat them with more leniency. For example, they were continually trafficking in Indian slaves. The monotonous laws repeat the same story: cupidity of the conquerors, enslavement of free natives, intolerable abuses. Moved by these reports, the Queen issued a general *cédula* definitely prohibiting any further traffic in slaves, and ordering the registration of all slaves then held.⁷ Indian slavery was to persist for many years, however, as exceptions were allowed every time the natives became obstreperous or the supply of labor for the mines ran short.

Zumárraga had requested more definite powers for the protectorship. He was given a special *cédula* which shows how weak that office really was. The protector might send persons to visit any part of his territory—with the approval of the *audiencia*. Such persons, or the protector himself, might make investigations of reported ill treatment of the Indians, submitting their findings to the *audiencia* in case the abuse should merit punishment. This in the more serious cases. Where a penalty of fifty pesos gold or less, or ten days in jail, was involved, the protector might have jurisdiction. He might also visit the *corregimientos*, but he was to have absolutely no jurisdiction over the *corregidores* and must submit his findings to the *audiencia* for action, "because it is not our intention that the protectors should have superiority over the said magistrates."⁸

This plainly reduced the protectorship to a device for keeping the government informed on Indian affairs, and took away its powers of interference in the administration. In theory the protectorship protected the Indians. In practice the result was quite the contrary. It turned every missionary into a spy on the *encomenderos* and *corregidores*, and tended to destroy any co-operation between them which must exist if they expected to

⁷ General *cédula* of the Queen to all officers of the Indies, Aug. 2, 1530, in Puga, *Cedulario*, I, 231-234; D. I. U., X, 38-43.

⁸ *Cédula* of the Queen to Juan de Zumárraga, Bishop of Mexico, Aug. 2, 1530, in Puga, *Cedulario*, I, 227-231.

make any progress in the civilization of the Indians. With the enmity of the colonists the missionaries' work was nullified. The able Fuenleal saw this when he came, and he brought about the suppression of this anomalous office in 1533.⁹

The new audiencia were not long in finding out that the path toward the emancipation of the natives was not strewn with roses.

The disposition of the land—wrote the oidor Salmerón, a month after their arrival—is being undertaken, as his Majesty has been informed. But as circumstances at present are such as to prevent its completion, it has seemed necessary to halt proceedings in the revocation and disposition of the encomiendas of Indians, which his Majesty ordered in the secret instruction. This is going to create a great deal of bitterness, but we shall not neglect it because of the difficulty of its execution, and shall undertake it soon again, endeavoring to go as gently as possible, that it may be felt less. And if this should not suffice, let those who will become angry, that which has been commanded by his Majesty shall be carried out, and, though it may harm the Spaniards here, yet it cannot be denied that it is in the interest and conservation of the Indians, and therefore just and right.

Salmerón goes on to lament the disorder in the government of the colony. The colony had really been without a master, as those in charge had been too interested in their own affairs to give it any attention. He thought that in the dispute between the Franciscans and the audiencia over the Indians there had been some justification on the side of the missionaries. Still, they had taken more liberty in their preaching than was proper. Lately they had also insisted in having a finger in the administration of the royal lands, claiming that it was all for the sake of religion, but they had been induced to subject themselves to the audiencia.¹⁰

Two months later the audiencia were again obliged to admit that they were making little progress in the supplanting of the encomienda. This, they wrote, was principally due to the absence of their president.

⁹ Cédula of the Queen to the Audiencia of Mexico, Apr. 20, 1533, in Puga, *Cedulario*, I, 291-302.

¹⁰ Salmerón to the Council of the Indies, Jan. 23, 1531, in D. I. I., XIII, 186-195.

We are impatiently awaiting our president, who is still in Santo Domingo, as we have encountered a thousand difficulties in the way of the new ordinances, particularly the one which suppresses the encomiendas and orders them converted into corregimientos. We have removed the Indians of over a hundred persons, and we are not giving them to anyone whatever, and this is exciting a universal clamor. The same holds for our having reduced the tributes imposed on the Indians by the governors who preceded us.

The audiencia regretted that they could give no Indians to persons who had rendered great service to the King, and it was still more painful for them to have to remove Indians of the widows and children of dead conquerors. But they were not going to yield to sentiment. Those who complained of their actions were being told that their cases would be laid before the King. "These promises, mixed with reprimands and punishments, have produced a good effect."

The removal of encomiendas had resulted in several vexatious problems. For one thing, the encomenderos, from the moment their encomiendas were removed, refused to cultivate the farms they had established, since they no longer had Indians to do the work. Then again, the rest of the encomenderos, suspecting the purpose of the Crown, were no longer interested in cultivating the soil or in raising cattle, but were making every effort to extract the greatest profit possible out of their Indians in the shortest possible time, fleecing them and sending them to the mines in droves. "And this is the reason the land is not being cultivated, nor will it be so long as nothing is fixed."

The audiencia were undertaking an interesting experiment at a new town they had founded near Cholula. A number of idle Spaniards had been induced to settle in this new town—called Puebla de los Angeles—by an assignment of fifteen to twenty Indians apiece. These Indians were to work for them for a limited time in agriculture and trades and would thus learn European methods. The chiefs of certain villages had been ordered to furnish Indian boys to be apprenticed to trades at

Puebla, and these had been promised that as soon as they became past masters they would be as respected and would earn as much as their Spanish masters. The Spanish mechanics, however, had refused to accept them as apprentices, but wanted them as perpetual slaves. There was an unbelievable amount of grumbling among the Spaniards about the conduct of the audiencia in this matter, but it was not going to be allowed to interfere.

Guzmán had been informed of the new ordinance prohibiting slavery, but he had replied that it would be the ruin of his people of Pánuco, "because they have no other business than taking slaves and sending them to the islands."

The ordinance against the use of carriers—*tamemes*—the audiencia thought should be modified. The Indians were used to bearing burdens from childhood—indeed, they had never had any other means of transportation and many of them had no other way of earning a livelihood. Two or three hundred of these *tamemes* would come to the market place for hire. If carrying were abolished it would result in a great loss for them and for the colony as a whole. On the other hand, there was no denying that terrific abuses had been practiced upon them. When Nuño de Guzmán, for instance, had gone off on his conquest of New Galicia he had taken along 15,000 carriers, most of whom had died.

The audiencia found also that there was something to be said against the abolition of slavery. The mines had suffered, business had fallen off generally, and the price of merchandise had dropped. The Indians, too, were getting bolder in their new freedom. The horses which they had formerly regarded with such dread were now familiar to them and they mingled among them in the *juegos de cañas* quite fearlessly and with great agility.¹¹

Is it reading too much into this letter to say that it is a plain surrender on the Indian question? Does it not show that

¹¹ Audiencia of Mexico to the Empress, Mar. 30, 1531, in Ternaux-Compans, *Voyages*, 2e série, V, 128-149.

the *audiencia*, like the Jeronymite Fathers, were finding the pressure of reality too much for the preconceived notions about the Indies with which they had left Spain? Did not every successful administrator in the Indies come around to a sympathetic view of the claims of the colonists? Could it be that all these officers were so morally obtuse as to be blind to the irresistible logic of the reformers of Las Casas' type? Or could it be that in the logic of the reformers there was something fundamentally illogical? These questions, as we have seen, have usually been answered by the historians hoisting the flag of humanity and charging in the cause of the oppressed Indians.

To return, even the mournful Salmerón found several strong arguments in favor of allowing slavery. The abolition, he said, had doubtless been very just in the light of past experience, but how were those Indians to be punished who attacked the *encomienda* Indians? If they could be made slaves they would be deservedly chastised and his Majesty profited, because these Indians could be put to work in the mines. And, anyway, this would not be so cruel as killing them off.

The Franciscans, he reported, in spite of a sharp reprimand, were still interfering too much in the government of the colony, although they had been supporting the measures of his Majesty, to the disgust of the colonists. The Dominican prior, on the other hand, had been contradicting their arguments in very good style, and speaking "more to the taste of the Spaniards, pointing out their merits and the demerits of the Indians."¹²

Five months later the *audiencia* were not finding the going any smoother. They had to work, they lamented, ten to twelve hours a day, and, for their pains, were made the target of many charges by the colonists, who complained that they were taking the side of the Indians against their own countrymen.

¹² Salmerón to the Council of the Indies, Mar. 30, 1531, in D.I.I., XIII, 195-205.

! The pretensions of Cortés, they feared, were going to lead to difficulties. In the late uprising of the Opilcingos he had sent his lieutenant, Porcallo, against them, and Porcallo had taken some two thousand prisoners. These Cortés had distributed among his men without the consent of the audiencia. They, however, had released all the old men, women, and children, and had sent the rest to the mines for a period to punish them. Cortés was very bitter about what he considered unjustifiable interference with the prerogative of the captain-general. He, moreover, had been using Indians in the building of his sumptuous palace—the other fellow's palace was always *suntuoso*—and the audiencia had ordered him to pay them wages, which he had agreed to do, but thus far he had not carried out his promise.

The Indians in the vicinity of the city were being employed in the erection of public buildings, a work they performed willingly by way of commuting the tribute they owed his Majesty. They were also working on a convent for women and on the sumptuous Dominican monastery that had been ordered. On the former they were being paid half a *celemin*—about two quarts—of maize a day, which was causing surprise, as “it is a very novel thing in this country to pay the Indians for working for the government.”

The Spaniards, they found, were still very discontented at having the encomiendas converted into corregimientos. They were no longer spending anything and business was suffering as a consequence. Some of the colonists were returning to Spain, while others were removing to Guatemala to join Alvarado, or were going to serve under Nuño de Guzmán, because they no longer had anything to live on.

This exodus of the colonists had decided the audiencia to establish a colony at Jalisco, so that the Spaniards would not be too far away to be called on in case of an Indian uprising. The Indians were very gentle, but were so blindly submissive to their

chiefs that the audiencia felt that they had always to be on their guard.

Alvarado in Guatemala and the people of Pánuco had raised a great outcry against the abolition of slavery, as it would keep new colonists away from those parts and thus materially retard the subjection of the country. Still, the Spaniards treated their Indian slaves like dogs. It was not thus among the Indians, who treated them like relations and vassals. It was true that the Indians occasionally sacrificed their slaves to idols, but in the main they used them kindly.

The audiencia were also convinced that so long as the Indians lived scattered about the country little progress could be made in their conversion. They should be reduced to villages in the proximity of the Spanish towns.¹³

Salmerón, who seems to have had some special commission to report to the Council of the Indies, added his postscript.

You cannot imagine—he stormed—the avarice, disorder and laziness of the Spaniards in this country. Those who have encomiendas think only of making the greatest possible profit out of them, without bothering the least bit in the world about the welfare or religious instruction of the Indians. Those who have none come impudently to us and demand something to live on. If told they are young and well able to work, they answer saucily that they took part in such and such a conquest!

The new town of Puebla had been established particularly to settle this element. Some fifty of them had already settled there and were building houses. Salmerón suggested that the Indians assigned to help these people should not have to serve more than about thirty-five days a year. After ten or twelve years of this service the Indians would have become accustomed to the habits of civilized people and it could be done away with. Some, indeed, were opposing even this moderate use of the Indians, but “they do not care to understand that this keeps the Indians from indulging in vice. Is it acting the part of a

¹³ Audiencia of Mexico to Charles V, Aug. 14, 1531, in Ternaux-Compans, *Voyages*, 2e série, V, 150-182.

good father not to chastise one's son and to let him give himself up to idleness?"¹⁴

Thus Salmerón, in spite of his fulminations against the encomenderos, was beginning to show himself more tractable toward them. In fact, his last argument was the one which had been maintained from Ovando's time in favor of the encomienda.

Still, the colonists felt very ill used. One Jerónimo López voiced their grievances. He reminded the Emperor that when the first audiencia had suspended the encomienda three years before, it had created great distress, and many of the colonists had departed for Guatemala and Peru. Sheep, for example, had gone down to one-eighth their former price. But many of the conquerors had remained in the hope of a new distribution of Indians, and most of them were living in poverty, while many of those who had had no part in the conquest were enjoying great estates. During the past week, he wrote, more than a hundred *conquistadores* had left for Peru, and all those without Indians were thinking of doing the same. López himself had married, as his Majesty had commanded the encomenderos to do, and now he had a daughter and no means of supporting her.

In a second letter he repeats the same story, but ends in a more hopeful tone. The audiencia had told the colonists that his Majesty was intending to make a new distribution among the conquerors, and they had become easier in their minds. He added the plea that the encomiendas should be made perpetual, as this would end all the practices that had made them objectionable; that is, the encomenderos would then treat the Indians as their own property, and so on. If the new distribution were not granted, he warned, there was always the danger of an Indian uprising in case of a general exodus of Spaniards from the colony.¹⁵

¹⁴ Salmerón to the Council of the Indies, Aug. 13, 1531, in Ternaux-Compans, *Voyages*, 2e série, V, 183-197.

¹⁵ Jerónimo López to Charles V, n.d., in *Documentos inéditos para la historia de Ibero-América*, I, 45-48, and July 4, 1532, *ibid.*, I, 19-21.

Why had the audiencia promised this new distribution? All their instructions led in the opposite direction. Possibly they had come to accept the colonists' point of view and, by giving them some encouragement, thought to force the hand of the government. The danger of being left unprotected in a land where the Indians had no reason to love their conquerors must have been a perfectly valid argument for keeping the colonists in the country. Hardly a letter home but repeated this fear.

Meanwhile the Queen had developed an original system for keeping a check on these public enemies—as the reformers conceived the conquerors to be. It consisted in having the audiencia keep a sort of ledger in which they were to post the good or bad conduct of every encomendero in the colony. Every two years they were to strike a balance and send it to the Queen. “It will be well,” she concluded, “that the natives and colonists both know of this purpose and the watchfulness we are exercising.”¹⁶

She approved of the Indians being used in the rebuilding of Mexico, with their consent, of course, and for wages. It would never, never do, she agreed, to let them live in idleness.¹⁷ Extraordinary, how the specter of the natives' idleness haunted the government!

Another long missive from the Queen confirmed most of the suggestions of the audiencia. Bringing the Indians into towns was clearly the principal means of their conversion, but they were to be persuaded to come of their own accord, and gently. “Everything,” she admitted, “is experimental.” The tributes of the Indians were to be gauged by those they had rendered to Montezuma. The carrier question was to be decided by the audiencia and the protector. It was wrong for priests to have

¹⁶ Cédula of the Queen to the Audiencia of Mexico, Dec. 10, 1531, in Torquemada, *Monarchia Indiana*, III, 259.

¹⁷ Cédula of the Queen to the Audiencia of Mexico, Mar. 20, 1532, in Puga, *Cedulario*, I, 252-253; D.I.U., X, 136-137.

encomiendas, since they had been made protectors of the Indians, although an exception might be made in the case of tonsured laymen. The audiencias were to incorporate the encomiendas of absentees in the Crown and make them over into corregimientos.¹⁸

The last clause of this cédula was to have an abiding effect on the encomienda, as it established that, in case of non-use, it escheated to the Crown. The hold of the Crown on the encomienda was further strengthened by another cédula of a month later which stated that the encomendero had no direct dominion over the encomienda, the Indians, or their tributes.¹⁹

The first year of the second audiencia had ended with things about as they were. The incorporation of the encomiendas had ceased, and the Crown, by the very fact of its circumscribing the powers of the encomenderos, gave them official recognition. The audiencia had been weakened, if not entirely won over to the encomenderos' point of view. But all this was taking place during the absence of the president. Would things have come about differently if he had been in control? For the next three years he was acting viceroy of Mexico. It may be interesting to see how he handled the same problems.

¹⁸ Cédula of the Queen to the Audiencia of Mexico, Mar. 20, 1532, in Puga, *Cedulario*, I, 256-274; D.I.U., X, 106-135.

¹⁹ Cédula of the Queen to the Audiencia of Mexico, Apr. 15, 1532, in Solórzano, *Política Indiana*, I, 233.

CHAPTER IX

FUENLEAL'S GOVERNMENT

Bishop Fuenleal had finally come to take up his duties at Mexico. He arrived in the middle of the carrier controversy. The audiencia had established that carriers might be used to a moderate extent, and had fixed a schedule. Married persons when traveling should be allowed to have from four to eight carriers, depending on the size of their party. Single persons were allowed two. But the *tamemes* were to be used only with their consent; they were to be paid 100 cacao beans a day, and in no case were they to be removed more than one day's journey from their homes. The audiencia had had some trouble enforcing this ordinance. There was Cortés, for example, who was building a couple of brigantines for a new exploring expedition, and he was having the material for them transported on the backs of the natives, from Oaxaca to Acapulco. The audiencia had sent two alguaciles to order them back, but Cortés had ordered them on. What were they to do with such a man?¹

Fuenleal thoroughly disagreed with the audiencia in the matter of carriers. He saw no justification for allowing them to be used, as the Indians, he wrote, were treated with great cruelty. Moreover, there were now pack animals in plenty to do the work. The merchants, he recommended, should be obliged to import she-asses to sell to the Indians. When the

¹ Audiencia of Mexico to the Empress, Apr. 19, 1532, in Ternaux-Compans, *Voyages*, 2e série, V, 201-207.

The cacao bean was the standard medium of exchange among the native Mexicans. It was evaluated by the Spanish authorities at 80 to 100 to the *real*, an eighth of a *peso*; a *carga*, two *arrobas*—fifty pounds—brought 30 to 38 *pesos*. (See Suárez de Peralta, *Noticias Históricas de la Nueva España*, 166-167.) A hundred years later Thomas Gage reported that the cacao bean was still used for currency (*New Survey of the West-Indies*, 280).

Indians should have cattle, sheep, and beasts of burden they would no longer make trouble, and "burdens will be carried on beasts and not on themselves."

He also disagreed with the audiencia on the slavery question. They had come to regard it as a necessary means of punishing rebels and replenishing the labor supply at the mines. Fuenleal appealed strongly for total abolition, "because in the license and disorder customary in taking and buying them, Our Lord has been disserved and this land has lost much."

He had been obliged, he wrote, to ignore the ordinance which limited the jurisdiction of the oidores to a district included in a radius of five leagues about the capital. With such a limitation they had no control over the disputes between the Indians of more remote villages or over the conduct of overseers left in charge of the encomiendas, many of which were at a great distance from the city. These overseers were in the habit of killing the Indians left in their charge, using them as carriers, ravishing their women, and mistreating them generally. The audiencia had to have wider jurisdiction so that they might send corregidores to check these abuses.²

The good bishop's correspondence has a general tone of hostility to the encomenderos, which is scarcely surprising, as he had been for several years president of the Audiencia of Santo Domingo where they had left a very bad odor behind them. As a consequence, perhaps, he was unduly impressed by the merits of the corregimiento and thought it more of a success than the event justified. His next letter contains little that is new. He decried the holding of encomiendas by unmarried men who were not even conquerors. "A conqueror," he defined, "is one who was in this country before the taking of the city the last time"—that is, before November, 1521. The encomenderos were still at their old trick of leaving their Indians in charge of *calpisques*,

² Fuenleal to Charles V, Apr. 30, 1532, in D.I.I., XIII, 206-224.

who treated the Indians more abominably than did their masters. He recommended the incorporation in the Crown of the *encomiendas* of unmarried men.

Then it was aggravating, he complained, to be out there doing what he could, while irresponsible persons at Court showered gratuitous advice about the conduct of the government of the Indies. He begged his Majesty to pay no heed to them, "since this *audiencia* is responsible for what is to be done, and not they."³

It has been seen in the last chapter how the *audiencia* had come to a full stop in the incorporation of the *encomiendas*. It might have been expected of Fuenleal, in view of his feeling against that institution, that he would stiffen the government's stand. Perhaps he did, but there is no indication that he pushed matters farther than the limit of strict prudence. Still, he was convinced that the *corregimiento* was far superior to the *encomienda* as a means of governing the Indians. The Indians, he wrote, were now beginning to understand what a great privilege they had in being vassals of his Majesty, and were even threatening to carry their grievances to Court.

The *Tlascalans*, he reported, were very loyal to the Spaniards, and he was using them as police in different parts of the country, a charge which they considered a great honor.⁴ The *Tlascalans*, it will be recalled, had been exempted from service by way of reward for their help during the conquest.

The *corregimiento*, again wrote the bishop, was turning out profitably and was improving. It was a measure "directed by God," and the more Indians that could be put under it the better, as it would conserve them and be an inducement for Spaniards to come to New Spain to settle. The natives would become more peaceful as they came to understand the difference between being held in *encomienda* and being vassals of his

³ Fuenleal to Charles V, July 10, 1532, in D.I.I., XIII, 224-230.

⁴ Fuenleal to Charles V, Sept. 18, 1532, in D.I.I., XIII, 233-237.

Majesty, and that they were no longer "subject to the tyrannies and deaths" which they had suffered under native rule. So his Majesty, went on the bishop, should not take too seriously the complaints of Spaniards who, because they were not given slaves or encomiendas, said the country was going to the dogs. Moreover, his Majesty should not act too precipitately about granting the perpetuity of the encomienda.

The Spaniards were trying in every way to acquire slaves, because the discovery of new and rich mines had sent the price up to forty pesos. But, warned Fuenleal, it would do immense harm to the country if this were allowed. It was the duty of the government to protect the Indians, as it was they who supported the country. So long as Indians were plentiful the country would yield a profit and there would be an abundance of new settlers. However, he thought that the presence of too many settlers would interfere with the conversion of the natives. At present there were enough Spaniards in the country for its defense, as many of those who had gone away were returning.

He advised that these new settlers should not be encouraged to emigrate from Spain with promises of encomiendas, but married men might be attracted by the prospect of the government of corregimientos of from two to three hundred Indians. After five years' service as corregidores they would become attached to the land and would settle permanently. But let no bachelors be sent! They were a disorderly and restless lot, and few of them ever settled for long or devoted themselves to honest labor.

The whole country, he ended, was pacified from Galicia to Guatemala.⁵

To judge by the above letter, there was still serious talk of making the encomienda perpetual. How had this come about? Only two years before the movement had been started to destroy

⁵ Fuenleal to Charles V, Nov. 3, 1532, in D.I.I., XIII, 250-261.

the encomienda piecemeal. Was the home government, like the audiencia, beginning to succumb to the forces of privilege and oppression? Or could a faint suspicion of the efficacy of the corregimiento have crept in? It is certain that the audiencia did not share Fuenleal's optimism in regard to it.

Our government—wrote the oidores—is still complained of by the Spaniards, but the Indians are tranquil and contented, and are beginning to be civilized. The corregidores no longer dare abuse their powers. We have intimidated several of them by removal. The Indians have learned to complain for themselves; they come from a distance for this purpose and themselves face and accuse the corregidores, we are keeping almost all the corregidores in Mexico, and only rarely allow them to visit their jurisdictions. Thus the city is kept full of people, and they do not molest the Indians.

The marquis [Cortés], they said, had built up a large following among those who were discontented with the government of the audiencia because of the suppression of the encomiendas. They recommended that the marquis and five or six others be expelled from the colony.

The young Indians who had been educated by the religious were being settled in separate villages to save them from contamination by their old religion. The audiencia also reported that they had been reducing the tributes a little, and that now, understanding the benefit which they were receiving, Indians were coming from great distances to solicit these reductions.⁶

Salmerón added his customary lament about the encomenderos. The new colony at Puebla was not prospering, for several reasons: for one, it could not be furnished with all the aid necessary for its maintenance until the proper orders were received from Court; for another, the encomenderos were very much opposed to it, saying that the new colonists were ruining everything by proving that the country could be governed without encomiendas.⁷

⁶ Audiencia of Mexico to the Queen, Nov. 3, 1532, in Ternaux-Compans, *Voyages*, 2e série, V, 208-213.

⁷ Salmerón to the Queen, Nov. 1, 1532, in Ternaux-Compans, *Voyages*, 2e série, V, 207-208.

The encomenderos had some cause for complaint in the turn of affairs since the heyday of their power over the natives. The missionaries, on the other hand, saw in the new régime the salvation of their work. They were particularly delighted at being made protectors of the Indians. The change, they hoped, "would stop the discords among the Spaniards as well as the ill treatment of which the natives have complained." They were very busy in their work of teaching and converting. Some of the Indian lads they had taught were out preaching among the Indians and destroying idols, and were frequently in danger of their lives.⁸

The encomenderos were still pestered with regulations, although the original plan of superseding the encomienda seemed to be in temporary abeyance. The Queen wrote that she was disappointed that the population of the Indies had not increased. The colonists, it seemed to her, had gone there with the sole idea of getting rich and returning to Spain. To check this the audiencia was to require each of them to spend one-tenth of his earnings through his Indians in the erection of permanent buildings, which would then become the property of the colonists.⁹

Fuenleal's praise of the corregimiento apparently had more weight with the government than the strictures of the oidores. The Queen was gratified to learn, she wrote, that the Indians under the new system were beginning to know the Spaniards better and to love the Christian doctrine. The corregidores, she ordered, were to remain in their corregimientos where they were to busy themselves in the instruction of the natives, the maintenance of justice, and the destruction of heathenism.

In this cédula she removed the power which the missionaries had welcomed and enjoyed for such a short time, the office of

⁸ Fray Martín de Valencia, *et al.*, to the Empress, Jan. 18, 1533, in Ternaux-Compans, *Voyages*, 2e série, V, 224-228.

⁹ Cédula of the Queen to the Audiencia of Mexico, Feb. 16, 1533, in Puga, *Cedulario*, I, 279-281; D.I.U., X, 155-158.

protector. This she did upon the recommendation of the *audiencia*. Thenceforth visiting was to be performed by two of the *oidores* accompanied by the heads of the two religious orders. They were to go together.¹⁰ That is, these four men in a body were to patrol a country several times as large as Spain, holding court, punishing abuses of the natives, adjusting disputes, etc., while, at the same time, they might not neglect their regular duties. The ignorance which continued to prevail in Spain regarding the physical difficulties in the way of effective administration is almost unbelievable. The fault lay, perhaps, in the willingness of the Council of the Indies to accept recommendations preferably from those who had no experience in the actual government of the colonies. This was Fuenleal's complaint. Upon Charles' return to Spain the Council of the Indies prepared for him a long "brief" opinion on Indian government which contains some illustrations of the type of proposal which vexed Fuenleal.

They recommended that monasteries should be erected in every Indian town capable of supporting one, for the education of Indian children, and that masters should be sent from Castile to teach them *Latin grammar*.

It was their opinion that the Indians were entirely free and not obliged to perform any personal service whatever, any more than free persons in Spain, and could only be required to pay tribute to the extent of their ability. They should not be given in *encomienda* to anyone, or in any way put under the power of the Spaniards, not only because of the great cruelties practiced upon them, but because they were free men. The Council advised his Majesty to place no reliance on the efficacy of ordinances for the protection of the Indians of the *encomiendas*, because experience had shown that they were not adequate.

¹⁰ Cédula of the Queen to the Audiencia of Mexico, Apr. 20, 1533, in Puga, *Cedulario*, I, 291-302.

Furthermore, the branding of slaves had been carried on by trickery, and his Majesty should have the slaves examined to determine whether they had been taken legitimately. Natives should be forbidden to sell their children, servants, and relatives into slavery. The use of *tamemes* should also be forbidden.

Another recommendation was that the Indians might be governed more effectively if the caciques were allowed to retain some of their original power. They could force the Indians to work; they could escort squads of men to the mines, which should be worked for the profit of the Indians, always, of course, allowing for the deduction of the King's fifth. With this source of revenue, they argued, the Indians would be able to pay tributes and tithes. The Indians should also be allowed to keep their lands if they showed any disposition to cultivate them.

New settlers could be attracted to the colony by promises of corregimientos, benefices, free land and houses, and they might also be allowed to bring with them a limited number of slaves.¹¹

These proposals of the Council of the Indies, aside from such manifest absurdities as the teaching of Latin grammar to the unfortunate Indian children, have the great weakness of refusing to recognize the well established rights of the conquerors, rights which had repeatedly been confirmed by acts of legislation. It was easy for persons in Spain, as Fuenleal had pointed out, to propose laws based on an ideal justice, so long as the responsibility for their execution fell upon other shoulders. But every administrator sent to the Indies, with one exception, recognized the impossibility and the injustice of dispossessing the *encomenderos*. The one exception lost his life.

To resume, Charles found little to do in the way of Indian legislation upon his arrival in Spain in the summer of 1533. His wife's government had exhausted most of the possibilities.

¹¹ Opinion of the Council of the Indies on the government of the Indies, Nov. 18, 1533, in D.I.L., XII, 133-142.

He did, however, order the erection of a church in every *corregimiento* and town of importance. The Indians, naturally, were to pay for them, but, lest they resent it, and gain a mistaken notion of the purpose of the churches, they were not to be assessed directly for them. Instead, their tribute was to be increased so as to cover the additional outlay, and after they had learned to pay tithes this extra tribute would be removed.¹²

Charles had a more practical mind than his queen. The *tamemes*, he ordered, might be used, with their consent, but their burdens were not to exceed two *arrobas*—fifty pounds—as the *audiencia*, but not Fuenleal, had recommended two years before.

It was now fourteen years since the Spaniards had first gained a foothold in New Spain, time enough for a common problem to make its appearance. Charles had heard that there were a great number of children of Spaniards by Indian women running about *perdidos* among the Indians. All of his grandfather's and his own salutary warnings for the conquerors to keep away from the native women had gone for nothing, and now came the *mestizo* further to complicate the difficulties of Indian government. The Spanish government, of course, was on hand with a remedy. Let these children be gathered up and sheltered in Mexico City and other Christian towns. Those who had fathers to support them were to be given to those fathers to support. Those without fathers were to be apprenticed to various trades or given in charge to *encomenderos* until their coming of age. Then they might do with themselves as they pleased.¹³

Thus the *mestizo* was made a person apart. Since the government felt so little responsibility for him, it was unlikely that the colonists would feel any. He was neither an Indian nor a

¹² Cédula of Charles V to the Audiencia of Mexico, Aug. 2, 1533, in Puga, *Cedulario*, I, 309–311.

¹³ Cédula of Charles V to the Audiencia of Mexico, Oct. 5, 1533, in Puga, *Cedulario*, I, 316–317; D.I.U., X, 178–180.

Spaniard. He was free "to do as he pleased." That is, he was denied the protective paternalism of the *corregimiento* and the *encomienda*, and certainly could rarely expect to be accepted in the ruling class. Left to his own devices, he was forced to live by his wits, and in time came to control to a large extent the Indian element in the country. The error of the Spanish government in thus creating a class of pariahs was one day to be expiated by having this entire group turn against the mother country in her hour of need, and today finds expression in the "Mexican problem."¹⁴

A good many harsh things had been said about Cortés by the second *audiencia*. A careful survey of what documents are available do not show that his Indians were worse off than those held by other *encomenderos* or *corregidores*. If anything, the contrary is true. The Indians in his immense holdings were literally unnumbered, as every attempt to count them by the *audiencia* had somehow come to nothing. He had been granted 23,000 along with his title of *Marqués del Valle de Oaxaca*, but estimates of the population of that valley alone ran up to several times that figure.¹⁵

One interesting document is the report of an interpreter, one Pedro García, who had been commissioned by the *audiencia* to report on the tribute which Cortés was demanding of his Indians. His report is a translation of an Indian picture document, and, since its tone is very hostile to Cortés, may not be strictly ac-

¹⁴ Priestley, *José de Gálvez*, 53; Bancroft, *History of Mexico*, II, 752-754. Ernest Gruening (*Mexico and its Heritage*, 69), quotes some interesting figures which show the increasing importance of this group in modern Mexico. In 1805 the races were distributed as follows:

Whites.....	1,000,000, or 18%
Mestizos.....	2,000,000, or 38%
Indians.....	2,500,000, or 44%

By 1910 the relationship of the races had become:

Whites.....	1,150,000, or 7.5%
Mestizos.....	8,000,000, or 53%
Indians.....	6,000,000, or 39%

¹⁵ Cédula of the Queen to the Audiencia of Mexico, Apr. 20, 1533, in Puga, *Cedulario*, I, 292.

curate, but it contains some curious information. Cortés, complained the Indians, was treating them like slaves, seizing their lands and exacting excessive tributes, on account of which the land was becoming depopulated. In the single province of Cuernavaca they were obliged to deliver every eighty days: 4800 blankets, 20 rich shirts, 20 skirts *idem*, 10 fine bed-covers, 10 coarse bed-covers, 4 cotton pillows. Besides this, they had to furnish field and house service, and food. Every year they had to cultivate 20 fields of cotton, 8 of maize, and had to harvest and store the crops. Every thirty days they had to carry to the mines 140 *cargas* (of 50 pounds each) of maize, 6 of *ají* (peppers), 4 of beans, and they had to supply Indians to work in the mines—presumably slaves, since it was forbidden to use *encomienda* Indians in the mines.

The town of Cuernavaca, they went on, had to furnish every other week 15 *cargas* of maize for the household of the marquis, 10 native chickens, 10 Spanish chickens, 3 doves, 2 rabbits, 10 partridges, and 80 baskets of bread, each containing 20 *tortillas*, fruit, salt, *ají*, wood, and hay as needed. On fast days they furnished 200 eggs, and fish as needed. They were also expected to provide without pay crockery, jars, etc., food and service for the overseers, and wet nurses for the marquis's servants. Every day, too, they had to furnish 80 cacao beans. And in the year 1532 the marquis had demanded 40 slaves of them to work in his fields, and now he was building a house in Cuernavaca with the labor and at the cost of the Indians. Moreover, he had instructed them to deceive the *audiencia* as to their number, promising them a reduction in their tributes, but he had not fulfilled his promise.¹⁶

¹⁶ Declaration of the tribute paid to Hernán Cortés by the Indians of Cuernavaca, Jan. 24, 1533, in D.I.I., XIV, 142-147. In the *residencia* of Cortés taken by Guzmán's *audiencia* he is accused of every crime in the calendar. The Court took no cognizance of this catalogue of horrors and loaded Cortés with honors when he came to Spain in 1528-30. This alone should establish the frivolity of the *residencia*. (See Banchoff, *History of Mexico*, II, 289-291; Archivo Mexicano, *Residencia de Cortés*.)

In defense of Cortés it must be remembered that no other Spaniard ever commanded the love and veneration of the Indians to an equal extent. Whenever he returned to Mexico his way was strewn with flowers, and the natives came from great distances to do him homage. Among the Indians, wrote Salmerón, his word was law, and this made him a powerful and dangerous man.¹⁷ "The affection which they have for the marquis," reported the audiencia, "comes from his having conquered them, and, to tell the truth, because he has treated them better than any other."¹⁸ Such testimony, in the view of the present writer, should outweigh that of a host of lesser witnesses.

The Emperor's practicality has already been noticed. It can hardly be a coincidence that soon after learning of the increasing demand for slaves in the mines and their rise in value, he suddenly discovered that since the abolition of slavery in 1530 the unconquered Indians had become very bold and dangerous. Since the colonists no longer had any interest in suppressing them they attacked the Spaniards with impunity. Another consideration that had much weight with the Emperor was that the slaves kept by the unconverted Indians had no chance of salvation. Since these would be slaves in any event, it was manifestly better for them to be slaves of the Christians. So the Emperor decreed that hostile Indians were to be punished by becoming slaves, but their women and children were to be made *naborías*.¹⁹

The burden of supporting the colonial church was one which the government felt should be borne by the natives. Yet any attempt to collect tithes was bound to give them the notion that the church was in the game of exploitation with the rest of the white race. Still, argued the Council of the Indies, the Indians had had a religious organization of their own before the coming

¹⁷ Salmerón to the Council of the Indies, Aug. 13, 1531, in Ternaux-Compans, *Voyages*, 2e série, V, 196.

¹⁸ Audiencia of Mexico to Charles V, Aug. 14, 1531, *ibid.*, 161.

¹⁹ General cédula of Charles V to all officers of the Indies, Feb. 20, 1534, in D.I.U., X, 192-203.

of the Spaniards, and it must have been supported in some fashion. It would certainly work hardship on no one if the money which the Indians had formerly spent on their heathenish rites were now to be applied to the support of the Christian doctrine. So a *cédula* was promptly dispatched to that effect.²⁰

The Council of the Indies had recommended that the labor of the Indians should not be forcibly used. Now they hastened to add that this did not apply to the church, and the priests might use Indian labor in the erection of their houses in every parish.²¹

Another problem facing the government was the permanent allocation of the colonists in a given place. This was far from easy, as at the rumor of every new discovery they were apt to pack up and go, leaving their partly developed *encomiendas* to return to a state of nature, along with their Indians. Two curious *cédulas* were issued in the hope of remedying this situation. It was ordered that colonists who had had their *encomiendas* for ten years or more might not move to another province, on pain of losing their title, while those who had held them for a shorter time were apparently free to move without penalty.²² It was also ordered that the *encomenderos* had to put up stone houses on their *encomiendas* within two years. This, too, was calculated to give them a permanent interest.²³

The last year of the good bishop's administration was little disturbed by orders from Castile. He had been appointed to the presidency as a stop-gap, and now the long awaited viceroy was coming to assume his duties. Few abler governors than the shrewd Fuenleal were ever seen in the Indies. Thanks to his strength and tact, Mendoza found the colony generally at

²⁰ *Cédula* of Charles V to the Audiencia of Mexico, Feb. 27, 1534, in Puga, *Cedulario*, I, 331-333.

²¹ *Cédula* of Charles V to the Audiencia of Mexico, Apr. 3, 1534, in D.I.U., X, 205-206.

²² *Cédulas* of Charles V to the Audiencia of Mexico, Apr. 18, and May 4, 1534, in D.I.U., X, 206, 208.

²³ General *cédula* of Charles V to all officers of the Indies, May 4, 1534, in D.I.U., X, 210-211.

peace, the rival factions comparatively quiet, the conversion and civilization of the Indians going forward as never before, and the more flagrant abuses in both the encomienda and the corregimiento in a way toward elimination. It may be saying too much to assert that the great viceroy, Mendoza, owed a large measure of his success to his able predecessor, but it is not likely that his success would have been so complete without the five years of pioneering by the second audiencia.²⁴

²⁴ Aiton, *Antonio de Mendoza*, 27-30.

CHAPTER X

LAS CASAS AND THE REFORM MOVEMENT

A number of references have been made in the preceding chapters to the activities of the reform party at Court. This party, which had its beginning back in 1511 with the protest of the Dominicans against conditions in Española, had grown stronger with the years, and, after the death of Juan de Fonseca in 1524, received more encouragement from the government. To gain a better comprehension of the personnel and activities of this party it will be necessary to go back to that day in 1517 when Las Casas, outraged at the conduct of the Jeronymite Fathers, went storming back to Spain to pour the tale of his betrayal into the listening ear of the Flemish minister, Chièvres. But he had given up all hope of saving the island population and decided to devote his not inconsiderable energies to prevent their fate from overtaking the tribes of the mainland.

His plan was original. He proposed to establish a colony on the Pearl Coast consisting of a group of hard-working, God-fearing peasants who should be free from the vices which had caused such a conspicuous failure in the island settlements. These men were to be, in fact, lay missionaries who by their example of rugged godliness would give the savages valuable lessons in the Christian virtues—all, of course, to be under the direction of the religious. After three years of constant battering at the government, Las Casas obtained an enormous grant of land along the Pearl Coast and permission to recruit settlers in Spain. He was assigned a helper in the person of one Berrio, who went off on his own account with a party of colonists and, it seems, with the cash. This *contretemps* embarrassed Las Casas, but he had a remedy. This was that fifty men should be found each of

whom would be willing to contribute a sum of money for the furtherance of the colony and themselves form part of it. They were to be organized into a sort of medieval crusading order and wear a distinguishing habit, a white dress with a red cross on the breast. This would permit the Indians to discriminate between them and their less godly countrymen. Their leader would be Las Casas himself. The colony, indeed, was to be an absolute theocracy, with Las Casas as high priest.

The storm of gibes with which this scheme was greeted among the irreverent may have exercised a dampening effect upon the Castilians. At any rate, Las Casas was unable to win any recruits for his Knights of the Golden Spur, as they were to have been called, and, thinking to have better luck among the colonists, he set out for the Indies with a small company of peasants toward the end of 1520. Upon landing in Porto Rico, he discovered that the devil was to pay on the Pearl Coast. The Indians, aroused by the seizure of some of their number by Spanish marauders, had descended upon the Dominican mission at Chiribichi and killed a priest and a lay brother. This act called for reprisal, and it was the punitive expedition under Gonzalo de Ocampo that Las Casas met when he and his company reached Porto Rico.

War in his territory and against his Indians! Unable to dissuade Ocampo, Las Casas left his company in Porto Rico and was off to Santo Domingo to protest against the invasion. He wasted several months in a futile attempt to make the audiencia act and, even after the return of Ocampo with a cargo of slaves, he still thought his colony was a possibility. He succeeded in making an agreement with the government of Española whereby they gave him some financial support and put him in charge of a new military expedition to the Pearl Coast. The armada sailed some time during the summer of 1521, stopping by at Porto Rico to pick up Las Casas' colonists, but those worthy men had somehow lost all enthusiasm for the godly life in the tropics,

and the expedition had to go on without them. At Cumaná the men became disobedient and mutinous, some deserted, and Las Casas quarreled violently with the commandant of the neighboring island of Cubagua. So he remained at Cumaná only long enough to build a storehouse for his supplies, and hurried back to Santo Domingo to report the misdeeds of the soldiery. Hardly had he left Cumaná, however, when the irritated savages fell upon his settlement and wiped out every vestige of the hated white civilization, including the lives of a priest and the five men left behind to care for the storehouse.

When Las Cases, after many adventures, finally reached Santo Domingo, this tragic news was awaiting him. It was the one time that he came near admitting defeat. He found a grateful retreat in the Dominican monastery of Santo Domingo, whose prior, Domingo de Betanzos, induced him to join the order, and he disappeared from public view.

Thus ended Las Casas' only attempt to colonize the New World. Like his other activities, it showed a driving and single-minded enthusiasm, a total lack of realistic vision, and a naïve faith in the goodness of mankind—except that part which disagreed with him. The judgment of Oviedo on the Cumaná expedition is one in which the modern reader will concur: "He who would be a captain cannot become one by chance, but must be experienced in war, and because he [Las Cases] knew nothing of this and trusted alone to his good intentions, he failed."¹

Las Cases remained for the next seven or eight years in his cloister. There is an unsubstantiated story about his emerging once toward the end of this period to negotiate a peace with

¹ Oviedo, *Historia General*, I, 599–602.

Testimony of Miguel de Castellanos, sent as accountant with Bartolomé de Las Casas, 1524, in D.I.L., VII, 109–116,

Las Casas, *Historia de las Indias*, V, 165–199.

Helps, *Spanish Conquest*, II, 116–142; Fabié, *Vida de Las Casas*, I, 107–122; and MacNutt, *Bartholomew de Las Casas*, 112–173, all follow Las Casas closely. A more critical account of the beginnings of the project is Serrano y Sanz, *Orígenes*, 426–435.

the rebellious Indian, Enrique, who for many years had been committing depredations on the settlements.²

The period between 1529 and 1533 appears to have been one of vertiginous and incredible activity on the part of Las Casas. Toward 1530 the Peruvian discoveries were setting the Indies agog, and Las Casas was not one to sit idly by while there was a chance to protect the Peruvians. So, if we are to believe our one authority, he went back to Castile, where his eloquence brought about the passage of a stringent anti-slavery law, presumably that of August 2, 1530.³

At any rate, it is fairly certain that Las Casas was in Española in 1531 with some sort of commission to promulgate this law and to establish missions in Peru. He was joined by two other Dominicans, Bernardino de Minaya and Pedro de Angulo. To allay the suspicions of the conquerors, so runs the story, they gave out that they were going to Mexico. They went to Mexico and then made their way overland to the port of Realejo in Nicaragua. They may have reached Peru, but the evidence against it seems overwhelming.⁴

² Remesal, *Historia de Chiapa*, 103, and, after him, Fabié, *Las Casas*, I, 130-134, and MacNutt, *Las Casas*, 178-180. Helps, *Spanish Conquest*, III, 221, admits the story is doubtful.

This story and a number of others in this shadowy period of Las Casas' life have as their only source Remesal, *Historia de Chiapa*, published in 1619. Remesal claimed that his narrative was based on documents and on writings of Las Casas, but his unfailing laudatory tone makes one suspicious. The present story, for example, has no corroboration in contemporary writings, and is ignored by the friendly Herrera. Even Las Casas himself, who was not given to hiding his light under a bushel, makes no mention of it.

³ Remesal, *Historia de Chiapa*, 103.

Cédula of the Queen to all officers of the Indies, Aug. 2, 1530, in Puga, *Cedulario*, I, 231-234. If Las Casas was, indeed, responsible for the enactment of this important law, the silence of all contemporary chroniclers is again remarkable.

⁴ Remesal, *Historia de Chiapa*, 103-105; Helps, *Spanish Conquest*, III, 221-224; Fabié *Las Casas*, I, 137-139; MacNutt, *Las Casas*, 183-185; Bancroft, *Central America*, II, 137, 169.

Helps is willing to admit that there is some doubt about this journey, but the more recent Fabié and MacNutt follow Remesal without a protest. The itinerary accepted by these biographers will give some notion of what

Whatever the truth of the Peruvian expedition may be, the three missionaries were back in Nicaragua in 1532, where Bishop Osorio persuaded them to remain and found a mission. After a year among the Indians of Nicaragua, Las Casas received an urgent message from President Cerrato of the Audiencia of Santo Domingo. The occasion of it was the arrival of a military expedition from Spain for the purpose of subduing the rebel Indians, who had again begun their depredations. Enrique had not been seen for several years, but it was believed that with his capture the insurrection would fall to pieces. Captain Barriónuevo, commanding the force, saw the absurdity and cruelty of leading a company of green troops on a wild-goose chase through a mountainous jungle. So with a small party he made his way to Enrique and succeeded in making a treaty with him honorable to both parties. Enrique died a year later a Christian and loyal subject of his Majesty.⁵

Las Casas arrived in Santo Domingo some time before June 7, 1533, as we have a letter of that date from the audiencia in

can be believed if one sets his mind to it. The distances and elapsed time are estimated.

1529-30	Española to Spain	3000 miles	3 months
1530	In Spain (Remesal)		6 months
1530-31	Spain to Española	3000 miles	3 months
1531	Española to Mexico	2000 miles	3 months
1531	Mexico to Realejo	1000 miles	3 months
1531	In Realejo (Remesal)		24 days
1531	Realejo to Peru	2000 miles	3 months
1531-32	Peru to Realejo	2000 miles	3 months

(Las Casas reached Realejo at the end of February, 1532.)

Fabié and MacNutt, rather than accept what plainly seems to be a miracle, advanced, on their own authority, the date of the departure for Peru from Realejo to "early in 1532," but they find no difficulty in accepting the equally extraordinary event of Las Casas' return from Peru in March of the *same year*. Bancroft has a more ingenious, if somewhat puzzling, solution. He has Las Casas reach Peru at the end of 1531, and then has him return to Nicaragua in 1532 from his "earnest though ineffectual labors in Mexico." (Italics not in original.)

⁵ Oviedo, *Historia General*, I, 157-158; Herrera, *Historia General*, Déc. V, Lib. II, Caps. vi-vii; Lib. V, Caps. iv-v.

Cédula of the Queen to the audiencia of Santo Domingo, July 4, 1532, in D.I.I., I, 482-485.

Asiento of Capt. Barriónuevo with the Audiencia of Santo Domingo, March, 1533, in D.I.I., I, 481-505.

which they complain of his scandalous preaching.⁶ After Barriónuevo's peace with Enrique, Las Casas went to the newly pacified rebels and converted them to Christianity, although the oidores, writes Oviedo, "were very much annoyed at the journey of this father to Enrique and his Indians . . . but as his journey was by the grace of God profitable . . . they were pleased with its success and thanked him for his labor."⁷

From this point Las Casas' career emerges from the realm of legend. The following year he was back in Nicaragua with several companions. With two of them, Luis Cáncer and Pedro de Angulo, he attempted a new voyage to Peru, but was driven back by storms, and returned to León in Nicaragua to continue his missionary work. Now Rodrigo de Contreras, recently appointed governor of the province, had been commissioned by the King to explore the outlet of Lake Nicaragua to the sea. Las Casas opposed the sending of a military expedition into that country, in view of the harm which would come to the natives from it. As an alternative he proposed to lead a peaceful expedition and make the exploration himself, and, when Contreras refused to give way, he excommunicated the governor and his whole army. The governor found this interference excessive and laid the case before Bishop Osorio of Nicaragua. The bishop died before settling the controversy and Contreras set out in defiance of Las Casas. Thereupon Las Casas characteristically abandoned the Nicaragua mission and went off to Guatemala, although the governor begged him to stay, perhaps not too urgently.⁸

⁶ Fabié, *Vida de Las Casas*, II, 59-60.

⁷ Oviedo, *Historia General*, I, 158. Remesal's account of this episode (*Historia de Chiapa*, 106-107), is that Cerrato commissioned Las Casas to undertake the negotiation of peace with Enrique, and that he accomplished it single-handed. Needless to say, Fabié and MacNutt, in spite of the contemporary account of Oviedo and the Barriónuevo document, follow Remesal.

⁸ Information taken in the city of León de Nicaragua at the request of the governor of that province, against Fray Bartolomé de Las Casas, on certain words spoken scandalously in the pulpit, and other things, March 23 to July 4, 1536, in D.L.I., VII, 116-146. This episode does not appear in Remesal or his followers.

The more pious version of this story relates merely that Las Casas left Nicaragua at the pressing request of Bishop Marroquín of Guatemala.⁹ In Guatemala Las Casas found a mission exactly suited to his temperament. In the unconquered province of Tuzulutlan lived a fierce tribe of Indians, called *indios de guerra* by the Spaniards. Now Las Casas had maintained in his tract, *De unico vocationis modo*,¹⁰ that conversion by force was wrong, and he was to have an opportunity to prove his thesis with the *indios de guerra*. With his extraordinary energy he set about his new task and in three years had brought it to a successful conclusion. The new converts were guaranteed their liberties by the governor, and later by the Crown, and were officially christened *indios de paz*, by way of contrast with their previous state. The province itself was renamed Vera Paz to commemorate the manner of its conquest.¹¹

At a general council of the Dominican order in Mexico in 1539 it was decided to send Las Casas to Spain to solicit protective measures and recruit missionaries for Guatemala. He reached Spain toward the end of 1539, and by the end of 1541

⁹ Remesal, *Historia de Chiapa*, 110; Fabié, *Las Casas*, I, 144; MacNutt, *Las Casas*, 188. Cf. Lozoya, *Rodrigo de Contreras*, 30-40.

¹⁰ No complete text of this tract is available, but it is summarized in Remesal, *Historia de Chiapa*, 118.

¹¹ The oidor Maldonado to Charles V, Oct. 16, 1539, in Fabié, *Las Casas*, II, 83-84; Remesal, *Historia de Chiapa*, 121-124; 145-147. Father Motolinía ventures a sneer at the Vera Paz mission: "Then he [Las Casas] went to the kingdom called Vera Paz, which is said to be such a great matter. This land is near Guatemala and I have visited and taught near there . . . and it is not one-tenth what has been claimed for it" (Motolinía to Charles V, Jan. 2, 1555, in D.I.M., I, 253-277, included in the appendix to this volume). It is curious that Thomas Gage could have spent upwards of ten years in this vicinity without having learned of Las Casas' connection with it. "The Vera Paz," he writes, "is so called for that the Indians of that Country hearing how the Spaniards had conquered Guatemala, and did conquer the Country round about, where-soever they came, yielded themselves without any resistance to the Government of Spain . . . All this Country as yet is not subdued by the Spaniards, who have now and then some strong encounters with the barbarous and heathen people which lie between this Country and Yucatan." (*New Survey of the West-Indies*, 304).

was ready to leave for America with his company of missionaries. Now it so happened that Cardinal Loaysa, president of the Council of the Indies and himself a Dominican, was contemplating a reform of the Indian code, and he needed the powerful support of Las Casas to offset the opposition of the colonists' party. So he kept Las Casas with him, with the result that in the framing of the New Laws of 1542 Las Casas must have had a very considerable part, although it is absurd to make him responsible for the whole movement.¹²

Perhaps the strongest figure of the reform group was the great Dominican humanist, Francisco de Victoria, friend of Erasmus and confidant and advisor of Charles V. From 1526 to 1546 Victoria held the highest chair at Salamanca, that of Theology. Becoming interested in international law, he delivered two lectures in 1532 which struck at the base of Spanish power in the New World. These are his *De Indis recenter inventis et de Indis sive de jure belli Hispanorum in barbaros relectiones*. In these two lectures Victoria attacked the title of the Spaniards to the New World and its inhabitants. His main conclusions are:

1. Since unbelief does not preclude ownership of property, the Indians are not precluded from owning property, and they are, therefore, the true owners of the New World, as they were before the advent of the Spaniards.

2. The Emperor is not the lord of the whole world, and, even if he were, he would not therefore be entitled to seize the provinces of the Indians, put down their lords, erect new ones, and levy taxes.

3. Neither is the Pope civil or temporal lord of the whole world. He has no secular power except in so far as it subserves

¹² Remesal, *Historia de Chiapa*, 151-157, 191-192.

The foregoing sketch of Las Casas' activities from 1517 to 1540 has been included to show that he could have had very little to do with the long series of humanitarian laws discussed in the preceding chapters. It is unjust, but perhaps inevitable, that one man should, because of his supreme ability as a publicist, be given credit for the work which would in any event have gone on without him.

things spiritual. He can have no power over the dominions of unbelievers and therefore cannot give such dominions to secular princes, and a refusal on the part of the aborigines to recognize the power of the Pope cannot, therefore, be regarded as a reason for making war upon them and seizing their goods. If the Christian religion had been expounded to the Indians with never so much sufficiency of proof, and they had still refused to accept it, this would not render it lawful to make war upon them and despoil them of their possessions.

4. On the other hand, the Spaniards have the right to go to the lands of the Indians, dwell there and carry on trade, so long as they do no harm, and they cannot be prevented by the Indians from so doing. If the Spaniards have diligently informed the Indians that they are not there to interfere in any way with the peace and welfare of the Indians, and the Indians still show hostility toward them and attempt to destroy them, then, and only then, will it be lawful to make war upon the Indians. In the event of war the Indians may be despoiled of goods and reduced to slavery, as "in the law of nations whatever we take from the enemy becomes ours at once, and so true is this that even men may be brought into slavery to us."

5. The Christians have the right to preach the Gospel among the barbarians. The Pope has the right to entrust the conversion of the Indians to the Spaniards alone and to forbid all other nations to preach or trade among them, if the propagation of the Faith would thus be furthered. If the Indians do not hinder the preaching of the Gospel they cannot be warred into subjection, whether they accept it or not.

The second *relectio* defines just war and establishes the right of the victor in a just war to enslave the vanquished. "Wrong done," says paragraph thirteen, "is the sole and only just cause for making war." But after the justice of the cause is established and every means of avoiding war has been exhausted, then, says paragraph forty-two:

It is as permissible to carry the innocent off into captivity as to despoil them, liberty and slavery being among the good things of Fortune. And so when a war is at a pass where the indiscriminate spoilation of all enemy subjects and the seizure of all their goods are justifiable, then it is also justifiable to carry all enemy subjects off into captivity, whether they be guilty or guiltless. And inasmuch as war with pagans is of this type, seeing that it is perpetual and that they can never make amends for the wrongs and damages they have wrought, it is indubitably lawful to carry off both the children and women of the Saracens into captivity and slavery.¹⁸

Certain of these propositions could easily have made Charles uncomfortable. On the other hand, they established beyond cavil the illegality of the use of the forced labor of free and peaceful subjects by private individuals, that is, the *encomienda*. Slavery *per se* was unquestioned, but slaves could only be taken in case of a just war. That such had not been the case of the Indian slaves of the New World had been amply and tragically demonstrated.

Thus backed by the authority of Victoria, the Dominican party gained ground rapidly at Court during the reign of Charles V. They were responsible for the humane measures inaugurated during the government of the second *audiencia* in Mexico. That many of these measures were impractical and therefore unsound cannot be gainsaid, but the noteworthy thing is that a government should be swayed so considerably by reasons of conscience. Reasons of state were certainly not absent. Such an anachronism as the *encomienda* in a centralized absolutism was not to be tolerated, but it is significant that the only *avowed* reasons for abolishing it were religious and humanitarian.

Such, then, was the background for the sweeping reform of 1542 known as the New Laws, in the framing of which Las Casas was to have a considerable part. It was clearly time for the codification of colonial law. The only code was the unsatis-

¹⁸ Victoria, *De Indis et de jure belli relectiones*, 115-187. It will be recalled that "saracen" was in the Middle Ages a generic term for all unbelievers.

factory Laws of Burgos and the multitude of contradictory cédulas which had been issued since 1492. Titles to land and Indian encomiendas were insecure, to the great detriment of every one. One government would grant encomiendas and the next would move to take them away. This time it was purposed once for all to settle this vexatious question, and both sides made ready for the combat. The inevitable junta of lawyers and theologians was called together at Valladolid, but it could not agree. Then a new junta was called at Barcelona, including our old friend, Fuenleal, which was more successful. All sides of the Indian question were examined, but this time the Dominican party triumphed, and the result was that the junta presented a program which contained several, as it turned out, highly dangerous features.¹⁴

The importance given to the establishment of the status of the Indians can be seen in the fact that twenty-three of the fifty-four articles of the New Laws concern them. These twenty-three will be examined below.

10. [Declares that] the Indians are free persons and vassals of the Crown, and that it has always been the royal purpose to have them treated as such. The Council of the Indies is therefore commanded to see to the execution of the laws for their benefit and protection.

24. [Declares that] it is one of the principal duties of the audiencias to inquire into and punish excesses against the Indians.

25. Law suits among the Indians are to be decided summarily and according to their usage and custom.

26. "We order and command that henceforth for no reason of war or for any other, even though it be by title of rebellion or purchase, is any Indian to be made a slave, and we wish them to

¹⁴ The story of the making of the New Laws has been told a number of times: Helps, *Spanish Conquest*, IV, 100-105; Bancroft, *History of Mexico*, II, 516-528; Stevens and Lucas (Ed.), *The New Laws of the Indies*.

be treated as vassals of the Crown of Castile, since such they are. No person may make use of any Indian, either as *naboría* or *tapia*, or in any other way, against his will."¹⁵

27. Those Indians not held legitimately as slaves are to be set at liberty forthwith.

28. The use of Indian carriers is only to be permitted in those places where it cannot be avoided, and then only with their consent and moderately.

30. No free Indian is to be taken to the pearl fisheries against his will, and if the loss of life in pearl fishing cannot be stopped it is to be abandoned.

31. All Indians held in encomienda by the viceroys, their lieutenants, royal officers, prelates, monasteries, hospitals, religious houses, mints, the treasury, etc., are to be at once transferred to the Crown.

32. Excessively large encomiendas are to be reduced, and the surplus is to be distributed among those first conquerors who have none.

33. Those who have mistreated their Indians are to lose their encomiendas, which are to revert to the Crown.

35. Henceforth no encomienda is to be made to anyone for any reason, and when the present holders of encomiendas die, their Indians will revert to the Crown. The wives, children, and heirs of such encomenderos will be provided for out of the tributes received from the Crown Indians.

36. The Indians removed from the encomiendas are to be well treated and taught in the Holy Catholic Faith as free vassals of the Crown, and this is to be the principal care of the presidents and oidores of the audiencias. These Indians are to be governed in the manner now prevailing in New Spain for the Indians under the Crown (i.e., the *corregimiento*).

37. In the distribution of *corregimientos* the first conquerors are to be given preference.

¹⁵ *Naboría* and *tapia* are both West Indian terms. They were applied with no apparent distinction to the Indians held in encomienda.

38. Suits involving Indians are no longer to be heard in the Indies or before the Council of the Indies, but must be heard before the King himself.

39. In expeditions of discovery no Indians are to be taken, save perhaps three or four to be used as interpreters. One or two religious are to accompany every expedition. Nothing is to be taken from the Indians except in fair trade.

42. The tributes of newly discovered Indians are to be fairly assessed and delivered to the royal treasurer.

43. The Spaniards are to have no authority whatever over newly discovered Indians, and are not to make use of them in any way whatever. They are to have only such use of the Indians' tributes as the governor shall order.

45. The Indians remaining alive in the islands of Porto Rico, Cuba, and Española are relieved of all tributes and services, so that they may multiply and be taught in the Holy Catholic Faith.

46. Those first conquerors and their heirs having no encomiendas are to be provided for out of the tributes of the Indians to be removed from the encomiendas.

47. Corregimientos are to be given preferably to those conquerors who were not provided for at first and to their sons.

48. Encomenderos must reside in the province in which their encomiendas are located.

49. The tributes paid to encomenderos and to the Crown are to be fixed at a lower rate than that which prevailed under the native rulers.

50. The Indians are to be well treated as free vassals of the Crown, which they are. Anyone mistreating them is to be punished according to the laws of Castile.

51. No encomendero may exact a greater tribute from his Indians than that fixed by the viceroy and the audiencia.¹⁶

¹⁶ Code of laws and ordinances recently made by his Majesty, in D.I.I., XVI, 376-406; Stevens and Lucas (eds.), *The New Laws of the Indies*.

Now there was very little in this new code that had not been either projected or enacted before. The novelty lay in the fact that this time the government meant to enforce every provision. The one article which was to test the strength of the government was the thirty-fifth, which provided that the encomiendas escheated to the Crown at the death of the present holders. The encomenderos, with some justice, it must be admitted, looked upon themselves as a vested aristocracy but for whom there would have been no New World for the Spanish Crown. With this clause of the New Laws they saw themselves and their families dispossessed and made paupers. Could a man with a large household be expected to begin life over again in old age on a salary of three hundred pesos a year? After all these years of hardship to be turned like beggars from the homes they had wrung from a hostile land? Was this their reward for their long years of hard service? It was as if some English king of the seventeenth century had suddenly gone mad and ordered all the freeholds of the North American colonies incorporated in the Crown. There would have been, it may safely be presumed, a War of Independence just so much the sooner, and this is what was narrowly averted in the Spanish colonies in the years of 1544 and 1545.¹⁷

In this discussion of the framing of the New Laws and their background, operations in the Indies have necessarily been neglected. By 1535 Fuenleal's work was done. He, too, the strongest governor yet sent to the Indies, had not thought it prudent to bear down too heavily on the conquistadores. The list was growing formidable: the Jeronymite Fathers, the two audiencias, Bishop Fuenleal A new broom, however, was coming to sweep the Indies. Would the great viceroy succeed where so many had failed?

¹⁷ Helps, *Spanish Conquest*, IV, 100-197, has an excellent account of the rebellion in Peru against Blasco Núñez Vela on the occasion of his attempted enforcement of the New Laws, in which he lost his life. The opinion of Cortés had been sought by the junta, but his name had lost its magic, and his prophecy was ignored (*Cortés to Charles V, 1542*, H. Stevens, ed.).

CHAPTER XI

MENDOZA'S FIRST YEARS

In the last chapter but one was described the administration of Bishop Fuenleal and the second audiencia. One weakness of that government was its consciousness of being an ad interim affair, and therefore it was perhaps inevitable that its policy should have been one of great caution. That seems, however, to have been precisely what was most needed in the distracted colony. The five *diminuendo* years of the second audiencia in the matter of conquistador-baiting had brought about a measure of tranquillity, so that the succeeding government was not met by the prospect or the actuality of civil war, and the reign of the great viceroy, Antonio de Mendoza, could begin under very favorable auspices.¹

With the viceregal system the Spanish Crown inaugurated a new policy toward the government of the Indies. The instructions were less minute and more latitude was permitted in their interpretation. It was the purpose of the Crown to make the viceroy responsible for the welfare of the colony, and to leave the details to him.² However, there was no lack of suggestions from Spain, especially in the matter of the Indians, as this was the period of the ascendancy of the reform party at Court. Still, there was no hint of the New Laws in Mendoza's instructions. He was immediately to complete the census and ascertain how much tribute the Indians were paying, and to see if they were

¹ The value of Fuenleal's services may be gauged by the honors which were thrust upon him in Spain. He was granted the bishoprics of Tuy, León, and Cuenca; he served as president of the audiencias of Valladolid and Granada, and eventually was made president of the Council of the Indies (Aiton, *Antonio de Mendoza*, 57-58).

² The viceroy's powers are summarized in Aiton, *Antonio de Mendoza*, 52-69.

able to pay more. They were not to be allowed to pay tribute in kind, as in the disposal of the products the royal revenues suffered a loss. If Mendoza should find that they were unable to pay a cash tribute, it was suggested that the Indians be allowed to work out—voluntarily, of course—the amount of their assessment at the mines.

The Indians, continued the instructions, were by nature lazy, and the viceroy was to provide that they should be employed in the mines to work for themselves. This would result in great profit for them, as it would keep them from idleness. The Crown, too, would gain the fifth tax on what they should produce. And then since the Indians would be rich, they would be better able to pay their other dues. The viceroy, however, was to proceed in this with the greatest moderation and caution.

He was also to look into the matter of the tributes exacted by the Indian caciques, which had been so exorbitant that the Indians had not enough left to pay the King's tribute.

The viceroy was to try to work the royal mines with Indian and Negro slaves. Monasteries and fortifications were to be erected with Indian labor, but without harm to the Indians. He was to see that in the present war no fraud should be committed in slave-trading, either by the Spaniards or the caciques. He was also to inform himself on the manner of using carriers and whether the present laws were sufficient for their protection. The Court also wanted to know whether it would be better for the Indians to have the Spaniards settled in their towns, or whether it would be better to settle the Spaniards in separate towns. All this, of course, with a view toward the conversion of the natives.³

The paragraph in Mendoza's instructions forbidding the Indians to pay tribute in kind shows a great weakness in the *corregimiento* system, as the viceroy soon came to recognize. The

³ Instructions of the Queen to Antonio de Mendoza, Apr. 25, 1535, in D.I.U., X, 245-263; D.I.I., XXIII, 426-445.

native had no money and therefore had to pay in kind or work out his tribute, and in that case where was the Indian any better off under the Crown than under the *encomienda*? Then the *corregidor*, in order to convert the tribute into cash, was forced to dump this produce on the market, with the result that prices went down to nothing. This is what was complained of in the instructions. The suggested remedy is wonderfully simple: make the Indians pay cash! And do not oppress them!⁴

Thus the Crown was forced into precisely the same situation for which the *encomienda* had been so bitterly blamed. The King's fifth—this was the keystone of Charles V's European edifice. Whether it came from the Spanish colonist or the Indian subject, whether it came from forced or free labor, it *had to come*, and the system that should ignore that primary fact would go on the rocks.

The seeming encouragement given the *encomenderos* during these first years was a bit cruel in the light of the New Laws. The Queen had heard, indeed, that they had been exacting too large a tribute from the Indians, and she ordered Mendoza to see that the excess should be restored. The same with the lands taken from the Indians by the *encomenderos*.⁵ At the same time the *encomenderos* were made the most important concession in the matter of inheritance. It was ordered that upon the death of a conqueror, his *encomienda* was to be inherited by his wife or child, that is, if it was not excessively large.⁶ The Crown was unconsciously putting the greatest obstacle in the way of the success of the New Laws.

Meanwhile Mendoza reached New Spain some time in September, 1535, and arrived at Mexico City between November 12

⁴ Mendoza to Charles V, Dec. 10, 1537, in D.I.I., II, 179-211, summarized below. See also the interrogatory of Tello de Sandoval to the Dominicans, in D.I.I., VII, 532-542, and below.

⁵ Cédula of the Queen to Mendoza and the Audiencia of New Spain, May 31, 1535, in Puga, *Cedulario*, I, 367-368.

⁶ Cédula of the Queen to Mendoza and the Audiencia of New Spain, June 16, 1535, in Puga, *Cedulario*, 368-370.

and 17.⁷ His arrival was rightly regarded with satisfaction by all parties as the beginning of a stable government. The one great exception was Cortés, who saw in Mendoza the end of his own dream of supreme power in New Spain.

True to the new theory of colonial government, the Crown at first interfered comparatively little with Mendoza. It would have been too much not to expect some direction from Spain, and so even Mendoza was not free from a scattering fire of cédulas, some of which were of considerable importance. The constant fear of an Indian uprising is reflected in the cédula which directed every Spaniard, and especially the encomenderos, to have arms in readiness at all times.⁸

Another of the same date provided that encomenderos were not to leave their encomiendas without permission of the viceroy, on pain of loss of their Indians. The same was to hold for those who overstayed their leave.⁹

This measure was later made to include the corregidores, who had also to be reminded that they were there to instruct the natives in civilized ways of living, in husbandry, and other profitable things. They were warned, too, that they were not to accept anything from the Indians beyond their salary. The corregidores, one suspects from this, were not all they should have been.¹⁰

It had been learned at Court that certain Spaniards had been sending Indian slaves to Spain for sale. This was a curious

⁷ Aiton puts Mendoza's arrival at Vera Cruz early in October. This is manifestly impossible, as it was announced on Oct. 2 in the cabildo at Mexico City, two hundred hard miles away. The journey from the coast to the capital normally took a month (Aiton, *Antonio de Mendoza*, 41-42; Bancroft, *History of Mexico*, II, 378; *Actas de Cabildo de Mexico*, III, 129).

⁸ Cédula of the Queen to Mendoza and the Audiencia of New Spain, Nov. 13, 1535, in Puga, *Cedulario*, I, 376; D.I.U., X, 306.

⁹ Cédula of the Queen to Mendoza and the Audiencia of New Spain, Nov. 13, 1535, in D.I.U., X, 307-308.

¹⁰ Cédula of the Queen to the Audiencia of Mexico, Feb. 16, 1536, in D.I.U., X, 316-317.

departure. There could not have been much of a market for them there, nothing, at least, to compare with the demand in the Indies, and their removal to Spain had long ago been forbidden. Now it was ordered that all slaves brought to Spain had to be accompanied by a certificate showing their origin. All others not so certificated were to be set at liberty—presumably at the port of debarkation.¹¹

The inheritability of the *encomienda* had been a moot point from the beginning between the settlers and the Crown. It was the denial of this principle that was to bring about the strongest opposition to the New Laws. Yet the principle had already been admitted by the Crown in November, 1535, as shown above. Now came a more elaborate decision admitting and defining it. It was the royal will, said the new *cédula*, that the Spaniards should settle permanently on their *encomiendas*. This they would do the more willingly if they knew that upon their death their wives and children would be provided for. Hence . . .

On the death of any inhabitant of that province who has Indians in *encomienda* and who has a legitimate child, the child is to be given the Indians which its father had in *encomienda*. If the *encomendero* has no legitimate children, the *encomienda* is to go to his widow. If she should marry again, the *encomienda* will go to her second husband, but if he has an *encomienda* already, he is to have his choice of one of the two . . .¹²

The importance of this admission must be emphasized again. It was by this and many analogous measures that the *encomenderos* had come to consider themselves as the justly established proprietors of their estates, and it was these precedents which gave them the legal ground for appealing against the New Laws. It seems to be evident at this time that the Crown had accepted the *encomienda*. Or more probably it merely indicates that the

¹¹ General *cédula* of the Queen, Mar. 17, 1536, in D.I.U., X, 317-319.

¹² *Cédula* of the Queen to Mendoza and the Audiencia of New Spain, May 26, 1536, in D.I.L., XLI, 198-204; D.I.U., X, 322-327. This important *cédula* does not appear in Puga's *Cedulario*.

Indian government was not then under the control of the Dominican party.

The missionaries had always been shocked by the loose marital relations prevailing among the Indians, and no end of cédulas had been issued to induce the Indians to accept the Christian arrangement. The absurdity, however, of attempting to suppress concubinage in view of the multitude of mestizo children running about, must have impressed the Court. At any rate, Bishop Zumárraga, who was in charge of the moral policing of the colony, was directed to abstain from fining the Indians a mark of silver—eight ounces—for keeping mistresses, since such was their custom. He was not to cease his efforts to reform them, of course, but *poco a poco*.¹³ The reason for this relaxing of the law in this important matter is found in a letter of Bishop Zumárraga of four years later. It seems that the law against concubinage furnished a handsome income to certain grafting priests, who went about fining the Indians and pocketing the proceeds. The same letter gives a dismal picture of the morality of the secular clergy.¹⁴

The rising power of the missionary element in the government is well illustrated in a long and minute cédula to the viceroy. It also illustrates again the unbelievable ignorance of the Spanish government regarding the difficulties of colonial administration. The only way, said this document, to bring the natives to a true notion of obedience to and reverence for their natural lords—the Spanish monarchs, that is—was to train them in the Holy Catholic Faith. Therefore Mendoza was to see that religious were sent wherever there was the least knowledge of God and the greatest need of doctrine.¹⁵

¹³ Cédula of the Queen to the Bishop of Mexico, June 26, 1536, in Puga, *Cedulario*, I, 384.

¹⁴ Zumárraga to Charles V, Apr. 17, 1540, in D.I.I., XLI, 161-184.

¹⁵ The early discovery of the connection between missionaries and empire-building has been pointed out before.

The encomenderos and corregidores were to have as their special care the teaching of their charges, the building of churches, and the support of priests, wherever the tribute was great enough to allow it. They were to set aside each day certain hours for the teaching of the doctrine. Even the slaves were not to go to hell, but were to be taught with the rest of the natives. To facilitate this work the religious and clerics were to learn the native languages.

The Court was concerned lest the Indians be contaminated by the reading of profane literature. They might conclude that all printed books had the same authority as the Scriptures, and therefore they were to be given only Christian books to read.

The religious, directed this *cédula*, were to cease from squabbling with one another, lest the Indians gain a false idea of their piety. The laity were to abstain from public sins, for the same reason. The colonists were to treat the Indians kindly, and slaves were to be taken and branded only according to law. Idle Indians were to be urged to work, but for wages, as free persons. The Indians were not, however, to be allowed horses. The specter of a native uprising haunts all these documents.

One *oidor*, concluded the *cédula*, was to be maintained in the provinces as an itinerant judge, to report on conditions among the natives, to try cases and settle local disputes.¹⁶

The viceroy had the power to suspend any of these ordinances, but it is typical of the Spanish Crown that it could not trust any official, however high. That the viceregal system could function with this interference is sufficient proof of its toughness, or of Mendoza's ability, or both. The Court had to intervene even in favor of a poor blind conqueror who had three marriageable daughters and not enough Indians to afford them a suitable dowry.¹⁷

¹⁶ *Cédula* of the Queen to Mendoza and the Audiencia of New Spain, July 14, 1536, in D.I.I., XXIII, 454-467.

¹⁷ *Cédula* of the Queen to Mendoza and the Audiencia of New Spain, Aug. 6, 1536, in Puga, *Cedulario*, I, 390-391.

From this point on to the passage of the New Laws there is little in the royal cédulas that shows any development in their direction. A few scattered ordinances kept Mendoza and the colonists generally reminded that the Court had the good of the natives at heart. Some one had brought up the question as to who was to pay for the religious instruction of the Indians. There was no doubt about it at Court. The encomenderos, said a new cédula, were to furnish religious instruction at their own expense. If there were not enough priests to go round the money was to be spent on churches.¹⁸

A cédula of the following autumn yields the information that the interpreters were up to their old tricks of cheating the natives. The Court varied the remedy this time by allowing the Indians to bring a friend with them.¹⁹

It was easy for the government to see that it was fundamentally wrong for the encomenderos to use the labor of the natives, but their scruples did not carry them to ridiculous extremes when the government or the church was to be the beneficiary. For example, when the new cathedral at Michoacan was to be erected somebody had to do the work, manifestly. So a cédula was accordingly issued to Bishop Quiroga enabling him to use the Indians of the neighborhood, those of the corregimientos as well as those of the encomiendas, with, of course, "as little vexation to them as possible." Only here there is no mention of paying them—but then the work was one in which "Our Lord was served." A "reasonable house" for the bishop was included.²⁰

There was nothing new in this. Public institutions were usually supported by grants of encomiendas. Thus hospitals,

¹⁸ Cédula of the Queen to Mendoza and the Audiencia of New Spain, Nov. 20, 1536, in Puga, *Cedulario*, I, 394-395; Torquemada, *Monarchia Indiana*, III, 261.

¹⁹ Cédula of the Queen to the Audiencia of New Spain, Sept. 12, 1537, in D.I.U., X, 381-382.

²⁰ Cédula of the Queen to Mendoza, Sept. 20, 1537, in Puga, *Cedulario*, I, 404.

monasteries, and the mint all had encomiendas assigned to them, although on a temporary basis. The Indians assigned to the mint served for two years, according to a *cédula* of November, 1537.²¹ This custom was abolished by article 31 of the New Laws.

There are comparatively few documents regarding the fate of the Indians during these first nine years of Mendoza's reign, that is, up to the promulgation of the New Laws in 1544. One document, however, outweighs all others in importance. This is a long letter from Mendoza to the Emperor giving an able and thorough exposition of all the affairs of the colony.

The city of Puebla de los Angeles had been started, it will be recalled, by the second *audiencia*, and was being built by drafts of laborers from near-by villages. Mendoza was of the opinion that it was unwise to use the Tlascaltecs in this service, as they had done good work in the conquest of the country, and might be needed again in case of an uprising. This is good evidence that there was some feeling among the Indians against being used forcibly on public works, e.g., in the building of the Michoacan cathedral.

The Indians of the provinces, wrote the viceroy, were receiving great injury from the lack of supervision. He was unable to put into effect the *cédula* which provided that one *oidor* be used as an itinerant judge, as he had only two *oidores* and one could not possibly carry on the entire work of the *audiencia*. He urged the appointment of permanent *alcaldes mayores*—provincial governors—who would exercise a permanent control over the conduct of the Spaniards toward the Indians.

The *corregimiento* system Mendoza found utterly ineffective as a check on the neighboring *encomenderos*. One of the chief functions of the *corregidor*, it will be remembered, was to act as a spy on the *encomendero*. Mendoza thought very little of the *corregidores* . . .

²¹ *Cédula* of Charles V to Mendoza and the *Audiencia* of New Spain. Nov. 18, 1537, in D.I.U., X, 385-386.

If your Majesty thinks that it is enough to put corregidores in the towns I assure you that nothing is more necessary for the relief of your royal conscience than to remove them. The persons appointed are incompetent and, moreover, they have no interest in what concerns the Indians except in taking their tributes and stealing from them everything they have left I think that in order to remedy this situation the corregidores should be removed and their salaries paid them by way of stipend, so that they may have a livelihood, and that *alcaldes mayores* should be given charge of the collection of all the tributes in their provinces

The viceroy found that the royal mines were suffering from labor shortage and he asked for money with which to buy slaves for their operation. It was illegal to force free Indians to work in the mines, although one *cédula* did suggest that they might work out their tribute in such a way—voluntarily. One would like to know here where Mendoza intended to get his slaves.

The mint had been given the town of Axiquipilco in encomienda for its support for two years. This period would be up in another four months and the mint would be left idle.²²

The viceroy found that the natives were very clever at imitation, and, in particular, at counterfeiting. Their coins were as good as the originals. They even imitated cacao beans with such perfection that these passed current among the natives.

Certain of the more remote territories, he thought, should not be given in encomienda to anyone, as their great distance made proper supervision impossible.

Here follows a paragraph that makes one further suspect that Mendoza favored the reestablishment of slave-taking. The Spaniards of New Galicia, he reported, were not able to support themselves since the royal order went into effect prohibiting the taking of slaves.²³ He had refused to allow them to take slaves, and had had to subsidize them with a thousand pesos' worth of tools to keep them from abandoning the province. He thought that his Majesty ought to put them on a salary.

²² In one of the rare instances of the use of foresight by the Indian government this had already been provided for by the *cédula* of Nov. 18, 1537, cited above. But then it concerned the mint.

²³ *Cédula* of Aug. 2, 1530, cited above.

It is hard to believe that the viceroy was sincere in this last suggestion. He knew that the Crown had never paid out anything for the conquest of new provinces and was hardly likely to do so at that late date. No less than three times he brought up the matter of the need of slaves at the mines in this one letter. He, perhaps, did not care to be quoted as being in favor of Indian slavery, but he could hardly have made it plainer that he considered it necessary.

The viceroy had the excellent idea of establishing an Indian order of nobility to reward those natives who showed the greatest progress in Christianity and service to the Crown. Of course, there should be no emolument attached, only a title and its insignia. It is strange that this inexpensive device was not adopted, as nothing could have been better calculated to attract to the King a loyal group of natives.

The governor and cabildo of Tlascala, he reported, had ordered all the slaves of that province set free and had prohibited slavery for the future. Mendoza thought his Majesty should approve this act.

The new silk industry was showing great progress. His Majesty should send over a couple of spinners to teach the natives to spin. No more would be needed, as the natives were so clever that they would soon learn the trade.

Zumárraga's school for Indian boys was a success. The viceroy had personally examined the boys in Latin and found them very proficient at it—for the length of time they had been studying it. He thought these boys would do more for the propagation of the faith than all the friars in the country. Zumárraga wanted another Indian town allotted to him for the support of this school as well as for a convent for the education of Indian girls. Mendoza thought his Majesty would do well to support such worthy enterprises. But this would necessitate taking some of the Crown Indians and putting them in a private *encomienda*

But since I have seen the difference between the Indians under the Crown and those held in encomienda, I tell your Majesty that I am very doubtful as to whether I shall do right in advising your Majesty to remove them from under the Crown. Some Indians of Guatepeque made me the most confused man in the world, because when I told them that they were to serve the treasurer by order of your Majesty, there was as much weeping as if I had commanded them to be hanged; but they remedied it later, for after they had left me they told the treasurer that their tears had been tears of joy because they were to belong to him.

This is all very confusing, after the gloomy picture the viceroy had just given of the corregimientos. Now the viceroy could not have believed the yarn about the "tears of joy." Why did he include it? It could not have told the King much more than it tells us today, and that is that the Indians were appalled at the idea of being put under the Crown. Was the viceroy, too, coming to believe that the encomienda was the lesser of the two evils?²⁴

²⁴ Mendoza to Charles V, Dec. 10, 1537, in D.I.I., II, 179-211.

CHAPTER XII

THE NEW LAWS AND AFTER

The first nine years of Mendoza's reign may be considered as a continuation of the wise and cautious rule of Fuenleal and the second audiencia. Thus fourteen years of peace under a powerful and intelligent government had brought about a degree of stability unknown elsewhere in the Spanish colonies. Here, then, if anywhere, the revolutionary clauses of the New Laws had the best chance of success.

It was characteristic of that suspicious autocracy, the Spanish government, that when any radical law was to be promulgated, it was seldom entrusted to the existing authorities. So it was with the New Laws. Even the great viceroy could not be trusted with their execution. Instead, a *juez de residencia*, one Tello de Sandoval, was given the double task of making an investigation of Mendoza's affairs and the administration of the New Laws. The story of Sandoval's reception in Mexico, the fear, distrust, and hatred he aroused, the efforts of Mendoza and Bishop Zumárraga to avert a popular uprising, and, finally, their success in persuading Sandoval to suspend the laws dealing with the *encomienda*, make an exciting chapter in the history of the times.¹

What we are concerned with here is rather the reasons which induced first Sandoval and then the Court to suspend laws that had been adopted after so many years of Dominican agitation and after the best legal opinion of the country had been exhausted. Was everybody wrong but Las Casas and his colleagues?

After Sandoval had been persuaded—perhaps frightened—into obeying but not fulfilling the law abolishing the *encomienda*,

¹ There are a number of accounts of this incident. See Helps, *Spanish Conquest*, IV, 105-106; Bancroft, *History of Mexico*, II, 524-529; Aiton, *Mendoza*, 163; Riva Palacio, *México a través de los Siglos*, II, 335-340; Priestley, *Mexican Nation*, 66-68.

he set about gathering the testimony of authoritative persons on the matter, with the purpose, it may safely be presumed, of covering himself at Court. There was no lack of witnesses. Written opinions poured in from every side, from prelates, priests, magistrates, missionaries, everybody. Their volume is overwhelming and their content very illuminating. Sandoval was systematic. He sent round a questionnaire containing three questions: (1) Is it necessary for the service of God and his Majesty to have the Indians held in encomienda? (2) Should the new law concerning this matter be laid aside? (3) If there should be many Indians idle because they were not held in encomienda what difficulties would arise?

The most important answer is a statement by the twelve Dominicans of the chapter at Mexico. It should here be borne in mind that this order had been the most active agent in the agitation against exploitation of the Indians. One of the twelve was Domingo de Betanzos, old friend and supporter of Las Casas. It was he, it will be remembered, who had induced Las Casas to join the order in 1522 after his disaster at Cumaná. It is not presumptuous, therefore, to suppose that these Dominicans were sympathetic toward Las Casas' ideas, or, at least, had been so.

For the permanence of the Spaniards in the country, wrote the Dominican fathers in answer to the first query, it was necessary for the Indians to be held in encomienda. For, they argued, it was indubitable to men of sense and judgment that the Indians were so fickle by nature that they would never of themselves retain the religion that they had received. Then there could be no permanence in the land without rich men, or rich men without encomiendas, because all industry was carried on by Indian labor, and only those having Indians were able to carry on commerce. Moreover, they continued, it was necessary to have rich men as a defense against enemies and as a protection for the poor—as was the case in Spain and in every well regulated republic. Also, if there were rich men in the country with

a permanent title to their estates, trade would be increased, and with it, his Majesty's rents.

The Indians—they said—receive great benefit from the Spaniards' holding their towns, as the Spaniards treat them as if they were their own children and the inheritance their children are to receive. And for this reason they strive to conserve them and govern them, and foment Christianity and bring religious to their towns. Allowing that there has been some negligence in this matter, yet no one now desires anything but the good treatment of the Indians, because of the justice and order which the viceroy has established, as well as the affection which the Spaniards now have for the Indians and their own interest, since they know that their wealth depends upon the prosperity of the towns in their charge. And if the Indians cannot pay their tribute on time we know that the encomenderos will not press them, and that they frequently forgive it them. Such is not the case in the towns held in *corregimiento*, as the Indians there are commonly thrown into jail on this account. And allowing that there are some good *corregidores*, yet it commonly happens that all they do is to collect their salaries and the tributes and no good comes to the town, but rather vexations and violence, as everyone knows. And, as the *corregidores* are poor and are so frequently changed, the saying is true that they do nothing but skin the Indians

The encomenderos were necessary for the defense of the country, because they maintained and supported men on their *encomiendas* and fitted them out every year. Without the encomenderos to protect them, what would become of poor Spaniards? The poor, said the fathers, could not live in the country in that case, unless they became servants of the Indians, "which would be a great insult to the Christians and the Spanish nation."

If this law was not repealed, they said, it was certain that most of the people and the best people would leave the country rather than abandon their wives and children to the Indians. The estates of the encomenderos had become worthless and without price since the announcement of the new law, and many of the married men were leaving the country, despairing of receiving confirmation in their *encomiendas*. If this confirmation was not received soon, thought the fathers, all would leave who could find buyers for their property, "and it is a most true fact that

if they leave your Majesty will not be able in a long time to reestablish this country with people who are as noble and attached to the soil as they are."

This new law revoking the encomiendas, they said, in answer to Sandoval's second question, might have been fitting and even necessary in some parts of the Indies, but it was unnecessary in New Spain, where the abuses of the Indians had ceased and the Indians were generally well treated by the encomenderos. They thought also that since his Majesty had made the grants of the encomiendas after such abuses had taken place and the encomenderos had got married and had many children, it was not just that these grants should be revoked without any present blame on their part. Rather, since they had won the country for his Majesty at their own expense and with such great hardship and peril, it was just that his Majesty should renew those grants and make them perpetual, because if they were not made perpetual the same discontent and disappointment and troubles of the present time would be repeated, and perhaps, they hinted a bit darkly, the remedy for so much was not far distant.

Answering Sandoval's third question, they replied that

As everyone knows, the Indians are weak by nature and not acquisitive, and are satisfied with having enough to get along on from day to day. And if there is any way to bring them out of their laziness and carelessness, it is to make them help the Spaniards in their commerce. In this the Indians are benefited through their wages and thus they will become fond of commerce and profits—as indeed some of them have already done—in imitation of the Spaniards And besides this, great good comes to the state and his Majesty from having the Indians help the Spaniards in their commerce and on their estates, because without Indians all trade and profit cease

Brothers: Diego de la Cruz, Prior	Gundisalvus de Santo Domingo,
Domingo de Betanzos, Prior,	Jordan de Bustillo,
Hernando de Oviedo,	Alonso de Santiago,
Tomás de San Juan,	Juan de la Magdalena,
Francisco Aguilar,	Joannes Lupus,
Didacus de la Cruz,	Dominicus de Anunciacione. ²

² Opinion of the friars of the order of St. Dominic of New Spain on the encomienda, May 5, 1544, in D.I.I., VII, 532-542.

This last statement, of course, is the crux of the whole matter. The monks were learning worldly wisdom. It cannot be too much emphasized that the men who wrote this memorial belonged to the group which had been fighting tooth and nail for the rights of the Indians ever since their arrival in Española back in 1510. The whole life of Betanzos is sufficient testimony that he would not have signed such a document from worldly motives alone. One must conclude that he and his brethren had become convinced of the futility of opposing a system that had by that time taken such fast root, and also of the fact that the encomienda had improved so much with respect to the treatment of the Indians that they had decided to accept it, as the Franciscans had done long since, as a means of Christianizing the natives. It is tempting to accuse these men of opposing the new law on the ground of interest, since their missions were supported in some cases by encomiendas,³ but their history generally is opposed to any such hypothesis, especially in these early years. Never did any body of men acquit themselves more honorably in a humane task than did the Catholic missionaries in Mexico.

The old bishop of Oaxaca, Juan de Zárate, did his bit to discredit the law. Oaxaca was part of Cortés' domain, and that fact may have had its influence on the opinion of the bishop. Still, there was something to say on the encomenderos' side. He said it. His letter was to Prince Philip.

The poor corregidores, said the bishop, were obliged to come as much as a hundred leagues to collect their salaries and deliver their tributes. They were forced to have their collections ready by a certain date and bring them to Mexico, and not a few of them had to spend as much in the collection of tributes and the government of their corregimientos as they were paid in salaries.

³ Bancroft says of the missionaries' opposition to the law abolishing the encomienda: "The reason is readily understood. There were many advantages to the church connected with the encomienda system; besides, Bishop Zumárraga was the owner of the important town and encomienda of Acuituco, and the Austin friars controlled Tezcuco, at the time the largest encomienda in New Spain" (*History of Mexico*, II, 524).

And if they did not bring the tributes to Mexico they destroyed them, and in order to account for them, they clapped the Indians in jail, so that they might not miss their appointments for the following year. Then, too, they were not able to give the Indians any respite in the payment of tributes.

Not so with the encomenderos, "who by giving them terms and teaching them the commerce of Castile and helping them over hard times, collect their tributes and make a living. Thus one small town [in encomienda] supports a Spaniard very well, while four towns [in corregimiento] do not produce enough to pay the salary of a corregidor." The execution of the new law, went on the bishop, would soon make this patent, when his Majesty's rents would diminish and the country be abandoned, a process which had indeed already begun.

The former abuses of the natives had ceased, added the bishop, not without humor, and now no Spaniard dared touch a native. In fact, the natives were now so pampered that they were beginning to mistreat the Spaniards and refused to feed them, except for money. Native police, too, had even dared arrest Spaniards. The Indians came and complained against the Spaniards for every trifle. Why, many of the Indians were rich and masters of their estates! They had all the money in the country, because they owned all the foodstuffs and sold them at exorbitant prices. They raised cattle and silk and paid next to no tribute. The result was that the natives were rich and well treated, while the Spaniards were poor and uneasy in their exile.⁴

The letter of Bishop Maraver of New Galicia to Charles V echoes that of the Dominicans. The bishop spoke most humbly of himself—he was an ant as compared with the greatness of his Majesty—but, nevertheless, he pronounced flatly against the execution of the new land and recommended that, on the contrary,

⁴ Juan de Zárate, Bishop of Oaxaca, to Prince Philip, May 30, 1544, in D.I.I., VII, 542-552.

all the land and Indians, except those under the Crown, should be given in perpetual encomienda. This would give stability to the country, protection to peaceful Indians and Spaniards, and would aid in the conversion of the heathen. The bishop also favored slavery as a punishment for armed rebellion⁵ which is scarcely surprising, since the terrible Mixtón war had taken place in his diocese.

These arguments were repeated by the eight Franciscan friars of the convent of Mexico,⁶ and by Francisco Terrazas, the reputed original of the Anonymous Conqueror.⁷

By far the most important document, however, concerning the repeal of the law against encomiendas is the memorial of the delegates sent by the colonists to represent them at Court. At the risk of repetition it will be necessary to summarize this masterly presentation of the case, both for the light it sheds on the encomienda question and because it was most probably partly instrumental in causing the repeal of the disputed clauses.

The Spanish conquerors, they argued, had exposed their lives and fortunes to win the New World for his Majesty, without expense to him, and had brought a knowledge of God to those heathen lands. His Majesty had been pleased to reward the conquerors by dividing the land among them, reserving royal rights and jurisdictions for himself. He had also reserved some of the principal towns for the Crown, but had allowed the rest to remain for distribution among the conquerors and future settlers. Moreover, his Majesty had repeatedly promised that the land would be divided among all those resident in New Spain and had ordered a census taken so that the division might be made. Meanwhile he had decreed that the holders were to enjoy their allot-

⁵ Gómez Maraver, Bishop of New Galicia, to Charles V, June 1, 1544, in D.I.I., VIII, 199-212.

⁶ Appeal made in the name of the congregation of the convent of St. Francis in Mexico, to Charles V, June 1, 1544, in *Nueva colección de documentos para la historia de Mexico*, II, 187-192.

⁷ Francisco Terrazas to Charles V, June 1, 1544, in *Documentos inéditos para la historia de Ibero-América*, I, 113-123.

ments, and their children and wives after them, it being understood that this distribution of the land was for the service of God, the preservation of the natives, the increase of the revenue, and the conservation of the country.

Now while this permanent settlement was being awaited, they continued, the New Laws had been brought to New Spain, not only not granting the expected settlement, but taking away from the conquerors and settlers what they had won and what his Majesty had promised them as a reward for their services. As a result there was danger of the country's being abandoned, as some six hundred families had already returned to Spain, and Spanish merchants were forsaking the commerce of the Indies. There was no need to mention, they hinted, too, the rebellion which had taken place in Peru against the New Laws.

The delegates urged two measures: (1) the immediate suspension of the New Laws; (2) the perpetual encomienda. If the New Laws were not suspended immediately, they contended, the remedy would come when there was no longer any need for it. And even if the New Laws were not particularly harmful in themselves, the sudden change and disturbance would work mischief. His Majesty had not been well informed concerning the benefits which these laws were supposed to bring to the colonies.

Then the encomienda should be made perpetual. By this means the conquerors and settlers of New Spain would be rewarded for their services and the land would be permanently occupied. They deserved a perpetual reward, because their services to the Crown were perpetual. Moreover, pleaded the delegates, it was cruel to force these men to go out and seek in their old age a living for their families. The encomienda had been established with the consent and approval of the Crown. Trusting to this and to the law granting the right of inheritance, many Spaniards had married and settled in New Spain, where they had become the mainstay of the country. Now they felt

that they had been deceived into marrying and taking up encomiendas.

Four things, said the delegates, were to be sought in the government of the Indies: the service of God, the good treatment and preservation of the natives, the stability of the country, and the increase of the royal revenues. These purposes, they thought, would best be served by granting the encomienda in perpetuity. This assurance of stability was necessary to maintain the Spanish population and to preserve Christianity among the natives through contact with them.

Allowing the above, it followed that the Indians, knowing that the Spaniards were there permanently, would devote themselves to living in peace and concord with them and to cultivating the soil, and thus would be kept occupied and prevented from indulging in their vices. This could not be under the corregimiento. And if the Spaniards held their encomiendas in perpetuity they would treat the natives as their own property. Master and man would come to know and understand each other. The corregidor, on the other hand, was a hireling, caring for nothing except his pay. He was not interested in planting or raising cattle, but only in making quick profits and returning to Spain. He could not protect the country, as he had not the means of supporting a large household. And as he did not cultivate the land, there was no commerce under him, and commerce was the principal wealth of the province. Such was not the case with the encomenderos, who sowed grain, planted trees and vineyards, employed slaves to mine gold and silver, and fomented commerce.

The Indians by themselves, urged the delegates, would not cultivate the soil in the Spanish manner. In many of the towns under corregidores it had happened that vines, fruit trees, orchards, and mulberries had been destroyed by the Indians. They refused to raise what the corregidores ordered them to raise, and paid their tributes in native products. But even allowing

that they would plant according to the orders of the corregidores—which, of course, they would not do without permanent masters—without the encomienda there would be no one to buy their products, as the corregidores and other salaried persons had only a bare subsistence, and thus everything produced above the amount of the tribute would be lost.

Then, too, they added, there were rarely, if ever, any complaints brought against the encomenderos for mistreatment of the Indians, while the audiencia was always full of suits concerning grievances and abuses in the corregimientos. The churches in the encomenderos were very rich. It was not so in the corregimientos. The encomenderos had built and planted, and they kept their houses filled with women and children, and many horses and persons from Spain. A hundred and fifty encomiendas had furnished as many as five hundred horsemen in the recent campaign in New Galicia [the Mixtón war], to say nothing of the men left behind to guard the city. If the defense of the country had rested with the corregidores it would now be lost and the Indians would be in rebellion.

Supposing, too, that the land were full of Spaniards without encomiendas, they would not till the soil, and if they did they would have no one to sell their produce to. They could not have any profitable trade with the Indians, as the latter did not buy Spanish goods. The natives wore only blankets of their own manufacture, and their houses had no furnishings. There must be a diversity of classes to support a state, argued the delegates, and this could not be without stability, and there could be no stability in New Spain without Indians. No one would come two thousand leagues to the New World to plow and dig. There was plenty of that sort of work in Spain.

The Indians, said the delegates, had great affection for their encomenderos, and adopted their manners and their names, which was not the case in the corregimientos. And in the encomiendas they were protected from depredations by wild tribes.

Then the perpetuity of the *encomienda* would increase the royal revenues, they said, because there would be an increased trade with Spain, and the Crown would gain more from the greater amount of duties than from the tributes of the Indians. The churches, too, would receive their tithes, the number of ministers would increase, and a true Christian community would be formed. It had been argued that if all the Indian towns were put under *corregidores* the Crown would receive the tributes of the Indians plus what the *encomenderos* spent. The absurdity of this contention, they thought, was obvious. The Indians paid their tributes in blankets, corn, and other products. They gave neither gold or silver, except in a few cases and in small quantities. The revenues that his Majesty had received had not come directly from the tribute of the Indians, but from the industry of the *encomenderos*, who by commerce had turned it into gold.

This instability was very bad for business. They said that in the year '30 his Majesty had ordered all the Indians put in *corregimientos*. Thereupon the prices of foodstuffs and other goods had broken. A fanega of wheat had fallen to one real; a load of the best blankets to three pesos; a load of maize to a half-real; cattle and pack animals brought very low prices, and there was no one to buy. Those who had been planting and raising cattle, seeing that it was all work and no profit, had dropped it, sold their estates, and made preparations to return to Spain. The country would have been abandoned then and there if his Majesty had not granted the succession of the *encomiendas*. At this the *encomenderos* took up their commerce again. Everything rose in value. Blankets went up to twenty pesos a load; wheat to a ducat a fanega; maize to three reals and over. And now with the announcement of the New Laws everything had gone down again.

In short, concluded the delegates, the *encomenderos* were the ones who, in the hope of perpetuity and succession, had thus far

supported the country, but now that they saw the New Laws driving them from their homes, they were saving what they could in order to come back to Spain, preferring to return poor rather than wait until they and their wives should be killed, because when they abandoned the land the Indians would seize it.⁸

Perhaps it was the exceedingly practical arguments of Villanueva and López, combined with the torrent of protest from the colonies, and perhaps it was the news of the serious rebellion in Peru that caused the Spanish government to waver in its humanitarian reform program. The affair called for an immediate decision. The Council of the Indies had one of their number, one Hernán Lopez, hand down an opinion. In brief it is as follows:

The Spaniards, he thought, were necessary for the development and holding of the Indies. Doubtless the best way to induce them to go there was to offer them some sort of permanent reward, so that they might take root and acquire a love for their adopted country. He was of the opinion that they should be given perpetual tenure of certain places, but without civil or criminal jurisdiction. All capitals and important towns, however, should be put under the Crown. If grants were made to the Spaniards in perpetuity they would be satisfied with much less than they had at present, and one encomienda as it now was could be made to do for two or three encomenderos. The Indians thus given in vassalage should have the privilege of removing to his Majesty's towns in case they were mistreated. This would give the Spanish proprietors an additional reason to treat their Indians properly.

The only doubt in Hernán López' mind concerning the perpetuity of the encomienda was whether it would actually benefit the Indians. If the encomenderos were to remain as they had

⁸ Petition of the delegates from New Spain to the King, June, 1545, in *Historical Documents relating to New Mexico*, I, 126-145. It is signed by Alonso de Billanueva (Villanueva), and Gonzalo (or Gerónimo) López.

been he thought that it would not profit the Indians, but if the encomenderos would keep the terms of their grants, it would be good for the Indians to have defenders and some one to instruct them in the Holy Catholic Faith.

Briefly, he approved of the theory of the *encomienda*, but suggested that its evils might be mitigated by a careful selection of the men to whom it was granted, and by the addition of certain restrictions, that is: (1) The tribute collected by the encomenderos should be fixed at a moderate sum and refixed from time to time. (2) No personal services should be exacted of the Indians except moderate work on the farms at a small wage. (3) In the fixing of the tribute a small amount, say one-twentieth, should be set aside for the king. (4) The *oidores* should visit the *encomiendas* with or without complaints from the Indians, and if the encomenderos were found to be mistreating them, their *encomiendas* should be reincorporated in the Crown.⁹

The enormous financial burden of the Hapsburg *Welt-Politik* had made the Spanish government very sensitive to anything threatening the revenue. The New Laws had thrown Peru into a turmoil from which it was not to emerge for several years, and Peru had already become indispensable to the Crown. More of that sort of thing would have meant disaster. This consideration must have had greater weight in determining the issue than any other. At any rate, the Court acted promptly and wisely. First, clause thirty-five was repealed. With it went the clause containing the absurdity of having all suits concerning Indians heard by the King in person (number thirty-eight). A third decree reestablished the right of succession of wives and children of encomenderos.¹⁰

⁹ Opinion of Hernán López of the Council of the Indies on the matter of perpetuity, 1545, in *Historical Documents relating to New Mexico*, I, 150-155.

¹⁰ General cédulas of Oct. 20, 1545 and Feb. 26, 1546, in Puga, *Cedulario*, I, 472-478; Solórzano, *Política Indiana*, I, 424.

Thus the encomienda had triumphed again, over the powerful Sandoval, over the reformers, over the government itself. They all, it seems, were in league with the devil. Or was it simply that nobody had discovered a legal commonplace, that is, that laws running counter to the interest of a majority will not and cannot be enforced?

But even with these fundamental revisions the colonists found the New Laws onerous in certain respects. These were the prohibition of slavery and the restriction of the use of carriers, which made it impossible to operate the mines and thus hurt the one industry in which the Crown was most interested. In such a case an adjustment could reasonably be expected. The government did not get round to it until 1549, and then did not make any specific disposition of the question. The New Laws, said a *cédula* of that year, had forbidden the taking and branding of slaves. But there was this matter of rebellious Indians. Two methods had been suggested by which they might be controlled. The first was the full penalty, death. The second was condemnation to personal service without branding. Of these two the first seemed too heavy for a weak people, and the second defrauded justice by being too lenient. The Crown concluded that the *audiencia* was to use discretion and execute the laws of the kingdom.¹¹

All this shilly-shallying leaves one with the suspicion that slavery was again an accepted fact and that the Council of the Indies did not care to take the responsibility of recognizing it officially. The labor shortage at the mines was a serious problem and the temptation to solve it illicitly was great. An indication of how it was met is found in a *cédula* of January, 1549, which forbids the *encomenderos* to send their Indians to the mines.¹²

¹¹ *Cédula* of the Queen to the *audiencia* of New Spain, Feb. 14, 1549, in Puga, *Cedulario*, II, 8-14.

¹² *Cédula* of the Queen to the *Audiencia* of New Spain, Jan. 7, 1549, in Puga, *Cedulario*, II, 7; Torquemada, *Monarchia Indiana*, II, 255.

This sending of one ordinance to bolster up another is one of the commonest characteristics of Spanish colonial law-making.

This was shortly followed by another directing the *audiencia* to forbid the commutation of tribute into service at the mines—an empty gesture. It went on to say that if, because of a lack of pack animals, it became necessary to use Indian carriers, they might be used, but their load was to be moderate and their journey short. They were to be paid a competent wage by the job, as the present rate of eight and a half *maravedís* a day amounted to their working for nothing. Furthermore, the *audiencia* were to bear in mind that it was the ultimate purpose of the Crown to abolish personal services completely.¹³ This seems to indicate that the present concessions to the *encomienda* were meant to be only temporary. After all, the Spanish government could not have felt very happy over its undignified scramble to reverse its position.

The viceroy analyzed the carrier and forced service question with his customary acumen. He suspected, he wrote the Council of the Indies, that the new law regarding carriers had been passed through the advice of people who did not know the facts. The stories of the abuse of carriers had been exaggerated. Carriers were necessary to carry supplies to the new mines at Zacatecas, as there were not enough pack animals by one-twentieth to handle the traffic. In fact, there was no way to travel in New Spain without carriers for one's personal effects, such as bedding, etc. The missionaries were obliged to use them. Even Sandoval himself had been forced to transgress the law in this respect. And what about Indian merchants? They were using carriers without restriction, and thus were gaining a great ad-

¹³ Cédula of the Queen to the Audiencia of New Spain, Feb. 22, 1549, in Puga, *Cedulario*, II, 14-18; Torquemada, *Monarchia Indiana*, III, 255, 260; Solórzano, *Política Indiana*, I, 65.

The eight and a half *maravedís* were equivalent to a silver *cuartillo*, which in turn was a fourth of a *real*, or the thirty-second part of a silver *peso*. There is no way of determining accurately the present value of a *cuartillo*. Mendoza considered it an excessive wage for weeding. See his letter quoted below.

vantage over their Spanish competitors. Military expeditions were impossible without carriers. And if government officials were obliged to hire pack trains every time they went from one place to another, their entire salary would not suffice to cover the cost of one trip.

The evil in the use of carriers, continued the viceroy, did not consist in loading the Indians. After all, fifty pounds were no heavier to an Indian than they were to a Spaniard. And why should the Indian merchants be favored at the expense of the Spanish? Some of the former had grown very rich trading throughout the Indies and using carriers without restriction. Wherever a Spaniard went he was held up by some corregidor, scale in hand, who must find out whether his Indians were carrying two or three pounds above the prescribed load. The Indian merchants had to suffer no such annoyance. In short, if he were to enumerate all the objections to the present law against the use of carriers he would never have done.

The viceroy thought that the laws against carriers and personal services might work some benefit in New Spain if he were allowed some discretion in their application. But, after all, the Spaniards had not invented personal services. They had been in use among the Indians from very ancient times. Why, then, was it worse for the Spaniards to use the Indians than for the Indians to use one another? The whole governmental theory of the natives had been based on personal service, and without it the Spanish system would go to pot.

It was absurd, he said, to make service voluntary, even for pay. The Indians would not work for the Spaniards without being forced to it. And now that the slaves were freed, how, he would like to know, were the mines to be worked? Negroes could not be used; they were too expensive. And how about the new industries manned with native labor? They would all be ruined if made dependent on a voluntary system.¹⁴

¹⁴ Mendoza to the Council of the Indies (?), n.d., in D.I.I., XLI, 149-160.

But common sense and clear-sightedness were not welcome in the Council of the Indies, where the voice of reform was still influential. At least they would see to it that government officials should not use the Indians in personal service.¹⁵ Still, there was no use being foolish about it. The government, obviously, could not function without some sort of service, as the Council came to see a couple of years later.¹⁶

Likewise Mendoza's recommendations regarding the use of carriers brought only meager results. The Spaniards, said a *cédula* of June, 1549, had been abusing the privilege of using carriers under the pretext of necessity, and thus had been interfering with the propagation of the Faith. Henceforth, then, carriers were only to be hired in the presence of royal officers who were to fix the weight to be carried, the wages, the length of the journey, and issue licenses. No mestizo who was not the legitimate son of a Spaniard might use carriers.¹⁷

The feudal origin of the theory of the *encomienda* is well illustrated in a case that came up about this time in Yucatan. Francisco de Montejo, the *adelantado* of Cozumel and Yucatan, had granted *encomiendas* to his wife and children. This, explained a *cédula*, could not be allowed, because women and children were incompetent to hold *encomiendas*, since they lacked the faculties for which *encomiendas* were granted, that is, ability to bear arms and defend the land.¹⁸

It has been seen that the government was inclined to allow itself a little latitude in the matter of using the labor of the Indians. Indeed, it was the theory of state necessity that finally

¹⁵ *Cédula* of the Queen to Mendoza and the Audiencia of New Spain, April 29, 1549, in Solórzano, *Política Indiana*, I, 68.

¹⁶ *Cédula* of Charles V to the Audiencia of New Spain, Sept. 21, 1551, in Solórzano, *Política Indiana*, I, 68.

¹⁷ *Cédula* of the Queen to the Audiencia of New Spain, June 1, 1549, in Puga, *Cedulario*, II, 20-24.

¹⁸ *Cédula* of Charles V to Santillán, oidor of the Audiencia of New Spain, June 17, 1549, in Puga, *Cedulario*, II, 24-30.

Cédula of Charles V to the viceroy and Audiencia of New Spain, July 17, 1549, *ibid.*, 35-36.

established the encomienda on a firm legal base, as the boundary between public need and private need was not easy to discern. So naturally the church could not be refused the labor of the Indians. The cathedral at Michoacan, we learn by a *cédula*, was to be completed by subscription. The Crown would bear one-third of the cost, the encomenderos one-third, and the Indians the remaining third. It was not even thought necessary to mention in the *cédula* that the Indians' third was to be labor.¹⁹

There was a great deal of literary activity in the Council of the Indies during the last year of Mendoza's reign. One very long *cédula* reviews the whole colony. It is not particularly significant. It had been reported, it ran, that certain encomenderos resented the presence of religious in their encomiendas. The *audiencia* were to see that the religious had entire liberty to go anywhere they pleased and erect monasteries. They were to investigate the college for abandoned mestizo children in Mexico City, because the King had spent a great deal of money on it. The carriers could be relieved by the building of roads and bridges. It had been heard that the old abuses of the Indians were being practiced at the mines. The remedy was not original: the Indians held at the mines against their will were to be set free at once. Still, the *audiencia* were not to allow the Indians to remain in idleness, but were to persuade them to work. Herds were to be kept away from the Indians' grain fields. Sites were to be chosen for the Spanish towns in such locations that no harm would come to the Indians from them. The *audiencias* were to put the New Laws into execution, except those repealed. They might mitigate the vagabond nuisance by putting the offenders to work and exiling a few of them by way of example. The Crown officers were again reminded that they had been forbidden to use the Indians for personal service.²⁰

¹⁹ *Cédula* of Charles V to the viceroy of New Spain, Mar. 11, 1550, in Puga, *Cedulario*, II, 60-61.

²⁰ *Cédula* of Charles V to the viceroy and Audiencia of New Spain, April 16, 1550, in D.I.I., XXXIII, 520-547.

It seems that the Council had even lost faith in the *corregidores*. A *cédula* of the following day forbade them to collect the tribute, which was thereafter to be handled by an officer especially appointed for that purpose.²¹

Next they attacked the use of native overseers. These *calpisques* had a bad name for harsh treatment of their countrymen. A *cédula* ordered that in the future all such were to be carefully examined before being given a license.²²

They discovered, too, that it would greatly facilitate the work of evangelization of the natives if they all spoke Spanish. So the Augustinian friars were directed to set about teaching them.²³ Fortunately for the Indians' souls, the missionaries generally learned the native languages.

The illicit slave traffic died hard. The Franciscans were made special guardians of the Indians in this regard. The *audiencia* were directed to appoint a prosecuting attorney to handle the cases reported by the Franciscans.²⁴ This precaution was not idle. The shortage of labor and the consequent rising price of slaves was an ever present temptation for the less scrupulous colonists to put their Indians in the mines. Then the Portuguese had begun to ship in Indian slaves from Brazil. An attempt was made to eradicate this traffic by declaring that all slaves brought in from the outside were to be set free, no matter what their origin.²⁵

In 1550, as a reward for his fifteen years of hard service, Mendoza, first and greatest of the viceroys of New Spain, was transferred to Peru. As a bequest to his successor, Luis de Velasco, the wise old man left a letter of advice, the contents of which, in

²¹ *Cédula* of Charles V to the viceroy and Audiencia of New Spain, Apr. 17, 1550, in Puga, *Cedulario*, II, 67-68.

²² *Cédula* of Charles V to the Audiencia of New Spain, May 6, 1550, in Puga, *Cedulario*, II, 83-84.

²³ *Cédula* of Charles V to the Provincial of the order of St. Augustine, in Puga, *Cedulario*, II, 87.

²⁴ Torquemada, *Monarchia Indiana*, II, 254.

²⁵ Solórzano, *Política Indiana*, I, 62.

so far as they concern the Indians, will make a fitting conclusion to this study.

He had found the religious, he said, most useful in the conversion and teaching of the Indians. On the other hand, the secular priests who came to New Spain were an inferior lot. He thought that if it were not for his Majesty's order and their work in baptizing the Indians, the Indians would be better off without them. This was true in general, but still there were a few good ones among them.

He had established a school for mestizo children as well as for Indian children. He found the Indians very capable, but advised against their admission into the priesthood until they had attained the civilization of the Spaniards. The latter were the best people and the most obedient that he had ever governed, that is, so long as they were handled with tact. The Indians were like children and had to be governed with love and firmness. Their caciques had to be watched to prevent their robbing their own people.

It had been difficult to induce the Indians to cultivate wheat, and its culture had devolved upon the Spaniards. The Indians should be encouraged in it, as there was daily greater need in order to feed the slaves who were being liberated. The work of road-building should be carried on to relieve the carriers. In Mexico City the greater part of the personal services required of the Indians consisted in supplying the town with hay and water. A canal and an aqueduct would relieve them of this. He had planted a large part of the dry lagoon in hay for this purpose.

There had been great confusion in the election of native caciques and governors. Some inherited their offices from their forefathers; others were elected; others held office because Montezuma had appointed them as *calpisques*. Mendoza had striven to make them elect men of good character and Christian life. In some towns it was necessary to put in Indian *alcaldes* in order to prevent drunkenness and sacrifices, to arrest the de-

linquents and to take charge of the task of bringing the Indians to hear their lessons. It had been the custom to punish drunkenness, which is excessive among the natives, by whipping, shearing, and requiring personal service, although this last punishment had been abolished outside the city, because it led to slavery.

He had made many Indians journeymen. They were examined according to the usage in Spain, and if they were found lacking they were made apprentices.²⁶

It was his habit, said the viceroy, to receive the Indian caciques and their followers together, even though the heat and odor might be offensive. This, he found, made a very good impression on them.

When he had first taken over that government he had ordered that the Indians should have the right to change their residence. This had been confirmed by a royal *cédula*. But the Indians had been using this privilege as a means of dodging the tribute, labor on public works, and punishment for concubinage. These run-aways should be forced to return.

He had tried to protect the Indians by ordering them to be paid for damage done to their fields by the cattle of the Spaniards, but they would maliciously break the ground near the cattle farms in order to have cause for complaint against the Spaniards.

The wages for Indians engaged in weeding had been fixed at a silver *cuartillo* a day. His Majesty had ordered this increased, although Mendoza thought the Indians were not worth any more. But if Velasco saw fit he might raise this to ten *maravedís* daily, but it would be excessive.

He had carried out his Majesty's orders regarding the liberation of Indian slaves to the letter. Velasco should not give these liberated slaves in charge to anyone to take out of the city, because in that case they would not obtain their liberty so quickly.

²⁶ Indians were seldom advanced in the guilds to a rank higher than that of apprentice. See Barrio Lorenzot, *Ordenanzas de gremio de la Nueva España*, passim.

He had also begun the policy of sending Indian judges to take the *residencia* of the governors and *alcaldes* of certain towns on complaint of the Indians.

"And as far as the Indians are concerned," concluded the viceroy, "there have been so many changes that several times I have said that we were going crazy with so many experiments. After sixteen years in this government . . . I could swear that I am more confused about them than at the beginning."²⁷

* * * * *

By bringing this study to an end with Mendoza's reign it is not meant to imply that from 1550 on the path of the *encomienda* was one of rosy prosperity. Far from it. Repeated assaults were made upon it by various governments, but it was tough enough to survive for long generations. "Certain perpetual *encomiendas*," says Professor Priestley, "existed until the closing years of the Spanish régime."²⁸ Still less can this pretend to be an exhaustive study of the actual workings of an *encomienda*. The materials for such a study are still in family archives in Mexico, if, indeed, they exist at all. Furthermore, it is not claimed here that the *encomienda* was any ideal solution for the unsolvable problem of racial exploitation.

Free from the mist of theological controversy, and with a four centuries' perspective of the history and economics of colonization, we can see now that the *encomienda* grew out of the logic of circumstances. Its toughness under attack proved that it was better adapted to survive under conditions in the Spanish New World than anything that was suggested to replace it. The circumstances which gave rise to feudalism in the Old World were repeated in the New, and it was inevitable that the Spaniards should apply the only system with which they were familiar to a situation that it fitted. Here were the fighting class, the praying

²⁷ Mendoza to Luis de Velasco, (1550), in D.I.I., VI, 484-515.

²⁸ Priestley, *José de Gálvez*, 50.

class, the working class, all ready to hand. The encomenderos—the fighting class—had a long history of domination behind them. Fighting and ruling was their profession. True to their tradition, they scorned manual labor and, anyway, as they said, if they wanted to plow, there was plenty of that to do in the old country.

The praying class had no quarrel with the theory of the encomienda. The protest of Las Casas and the Dominicans must not be taken as the official attitude of the church. The church, in fact, accepted the encomienda, because it continued the familiar feudal organization, and because the notion of the spiritual wardship of backward peoples is not incompatible with Christianity.

The Indians themselves seem to have fallen into their new rôle of medieval serfs with remarkably little protest. That there was no rebellion of the encomienda Indians in Mexico must be credited as much to their acceptance of the new order as to the military strength of the Spaniards. It seems probable, too, that they found their new serfdom milder than that which they had endured under their native rulers.

The result was the establishment of little principalities, isolated from one another and from markets by lack of transportation, self-supporting and self-sufficient. Their proprietors were loyal tributaries of the King, yet the spirit of independence fostered in such an atmosphere made the encomenderos a difficult people to balk. Each encomienda, too, following feudal tradition, was a military unit, sworn to defend the King, and included elements of the crusading orders besides, as the avowed purpose of its establishment was the conversion of the Indians.

It is only contended here that, *viewed in the light of the sixteenth century*, the encomienda was a logical and wholly justifiable organization of society in the Spanish colonies. It cannot be denied that on the whole it fulfilled the purposes for which it was invented. The evils attendant upon its evolution have been unjustly charged against the underlying theory, whereas they

were rather the result of the friction of the tremendous readjustment of the New World caused by the Spanish invasion. This, of course, does not excuse the nameless ferocities of the first generation, or of later ones, for that matter. But these, it is urged, would have happened under any system, given the character of the early invaders. Finally, it may be doubted whether any other large-scale exploitation by a modern colonizing nation has been more successful than the encomienda of the Spanish colonies in America.

APPENDIX I

INSTRUCTIONS OF CARDINAL XIMÉNEZ DE CISNEROS TO THE JERONYMITE FATHERS FOR THE REFORMATION AND GOVERNMENT OF THE INDIES, 1516*

The King and Queen to the devout fathers Fray Luis de Figueroa, prior of the monastery of La Mejorada, Fray Bernardino de Manzanedo, and Fray Alonso de Santo Domingo, prior of San Juan de Ortega, of the Order of Saint Jerome:

That which you are to do severally and conjointly concerning the reformation of the islands and Indies of the Ocean Sea is as follows:

First, as soon as you arrive at the island of Española you will have some of the principal settlers called together and told the reason of your coming: that you are not going to take from them anything that is rightly theirs, or to work any hardship or injustice upon them, but to make it possible for them honestly and justly to enjoy and make use of what is theirs and to live in order and justice without doing wrong or injustice to the Indians and natives of that island, and that we are sending you for this purpose moved by the great outeries and complaints of the said Indians. It is said that they have in many ways been oppressed and injured and killed by the settlers, especially by those who have had the Indians in encomienda, and of this we have received many and long petitions. And [you are to tell them] that our intention has been and is to provide that all may live together in peace and concord and not injure one another unjustly, so that they may be the more honored and profited. And in order that this may be understood and provided, you are especially to command them on our part that they consult with

* D.I.U., IX, 53-74.

the other settlers of that island about it and name three or four prudent and wise persons with whom you can consult and take some good course for the future with the good will and consent of both parties [i.e., the whites and the Indians], if possible, and you will say the same to the caciques of the island.

And after this has been done you will take several religious of the Dominicans and Franciscans to act as interpreters and you will have called before you several others of the principal caciques of the island and tell them that certain petitions of theirs have come to our attention concerning the many and great injuries they say they have received from the settlers who have gone from here and are in the island. And [you will tell them] that in as much as we are just monarchs and their lords we will not consent or allow that they, as our subjects and Christians, be mistreated, and that we are sending you there to learn what has happened up to the present and to provide that they live in order and peace so they may be honored and profited and instructed in our Holy Catholic Faith and well treated, as our subjects should be, since they are free Christians. And we shall be well pleased if it is possible that with the consent of both parties some course is found that is just and reasonable so that they may live and have intercourse with one another, and for the good treatment of the Indians. And command them, since this is for their honor and profit, to confer with the other caciques and to name three or four of their most prudent to consider the matter and come to some conclusion, as in this we shall be well served.

And it would be well if with the good will of both parties some arrangement might be made with the Indians whereby they would live in towns and be governed by their caciques and other persons named for that purpose, and whereby they would be obliged to give us a certain just amount with respect to what they owe us because of our superiority over them, with some reduction of what they have been giving, as may be just, so that

we may be served. And [it would be well if] the settlers who have had Indians in encomienda and other privileges were satisfied with the profit they have received and receive from them, the rest to be for the Indians, and if some part might be given to the caciques in such amount as you might approve. And in order that they might not waste it you might have it deposited with some good person who would buy with it whatever they might need, with your approval or with that of some person appointed by you. This would be a good thing for everyone, because we should be served and they well treated and the settlers satisfied and rewarded with the favors done them, and especially Our Lord would be served and our Holy Faith planted in them, and, in this event, you are to provide their manner of living, maintenance and work as will be prescribed below.

And if you should adopt this course in the island of Española, you will do the same in all the other islands.

And in case it proves impossible to adopt the said course, and some difficulty is found in it, you should take another course, which is the following:

Find out how many caciques there are in the island of Española and how many Indians each one of them has, and the other Indians that are not under the caciques, who are called *naborías* or *lucayos*.

Likewise you are to look into the question of land, especially that which is near the mines from which gold is taken, and see where villages can be placed for the Indians to live in, where they will have good lands for tillage; and there must be rivers near by for fishing; and it must be possible to go to the mines from thence with the least trouble and without inconvenience. This you will do as much as possible with the good will of the caciques and Indians who are to reside there, making them understand that this change is being made for their profit and so that they may be better treated.

The towns should be composed of 300 inhabitants [i.e., heads of families], more or less. There will be as many houses as there are inhabitants, built in the fashion that they are accustomed to build in, [and in such wise that] although their families should increase, as God willing, they will increase, they may be housed.

Also you will provide that a church be built, and a square and streets laid out, a house built for the cacique in a place near the square, larger and better than the others, because all the Indians are to gather there, and another house for the poor, the aged, children and the sick, as will be described below.

And you will give each town a convenient tract assigned it, rather more than less, because of the expected increase. You will divide this tract among the inhabitants of the town, giving a part of the best land to each where they can plant trees and other things and make *montones* [hills of *cazabí*] for themselves and their families, more or less, according to the quality of the person and the size of the family, and to the cacique as much as to four inhabitants, the rest to remain for the town common and for pasture, and enclosures for pigs and other stock.

To these towns you should bring the inhabitants and Indians nearest to the site chosen for the town so that they may remain on their own land and come the more willingly, and you will arrange with the caciques to bring them of their own accord, without otherwise coercing them, if possible, and these caciques are to have charge of their Indians in their government, as will be described below.

And if the Indians of one cacique should suffice for a town, let it be made with them; otherwise, you will combine other caciques of those nearest, and each cacique is to have authority over his Indians as customary, and the whole town will be under the charge of the principal cacique, together with the religious or priest who is there, or with the person who will be named for this purpose, as will be described below.

And if any Castilian or Spaniard of those who are now there or who go there to settle should wish to marry any *cacica* [female chief] or daughter of a cacique to whom the succession belongs for lack of males, let this marriage take place, with the consent and agreement of the religious or priest or of the person named for the administration of that town. And after marrying in this fashion let this man be cacique and be held and obeyed and served like the cacique whom he succeeded, as will be prescribed below for the other caciques, because in this fashion all the caciques will soon be Spaniards, and thus great expense will be avoided.

Also each town is to have jurisdiction within its boundaries, and the said caciques are to have jurisdiction to punish the Indians who transgress in the town where they are superior, not only over their own people, but over those of the inferior caciques who live in that town. This is to comprehend those who deserve punishment up to whipping and no more. And upon these they are not to execute punishment by themselves alone, but with at least the intervention of the high council and the consent of the religious or priest who is there, the rest to be in the hands of our ordinary justice. And if the caciques should do what they ought not they are to be punished by our ordinary justice, and also if they should injure their inferiors they are to remedy it as fitting.

The officers for the government of the town, such as *regidores*, *alguaciles*, and so on, are to be placed and named by the said superior cacique and by the religious or priest, together with the person who will be named as administrator of that town, and, in case of disagreement, by the two [latter].

And, so that in each town matters may be attended to as they should, it is fitting that you name a person who is to have the administration of one or two or three or more towns, according to the population, who is to live in a central location, convenient for his duties, in a stone house, and not in any village. And so

that the Indians may receive no harm or disturbance in their lives this [administrator] is to be a Spaniard who has lived there, a man of good conscience who has treated the Indians well that he had in his encomienda, for he will know well how to govern and to do what is fitting in his office.

This person will visit the town or towns assigned to him and come to an understanding with the caciques, especially with the principal one of each town, so that the Indians may live in order, each one in his own house with his own family, and work in the mines and on the farms and in raising cattle, and at the other things which the Indians are to do, as will be explained below. And he is not to molest them or force them to work, or to do more than they are required to do, and this you will make a matter of conscience with him. At the time his commission is given him, take his solemn oath that he will fulfill his duty well, and if in anything he should exceed it and should deserve punishment, let him be punished by our justice.

To carry out his duties it is fitting that he have three or four Spaniards, or others whom he may wish, and the necessary arms, and he is not to consent that the caciques or Indians have their own arms or another's, but only those he will deem necessary for hunting. And if he should desire to have more persons, or sees that he can have them by paying them their just and proper wage in the sight of the religious or priest, and if any Indians should wish to live with him of their own will, we permit him to have them, provided he has no more than six, but he may not order them to go to the mines, but will use them in his house and for other things. And if they should become discontented with his company they are to have liberty to return to their native villages.

This administrator, together with the religious, is to do all he can to make the caciques and Indians live in an orderly manner, making them wear clothes, sleep in beds and keep the tools and

other things assigned to them. And each one is to content himself with one wife, and he is not to be allowed to leave her. And the women are to live chastely, and the one who commits adultery is to be punished, together with the adulterer, if the husband accuses her, with a penalty of up to 100 blows by the cacique, with the advice of the administrator or person who will be in the village. Also let him see that the caciques and their Indians do not trade or sell their belongings or give them away, or gamble with them, without the permission of the religious or priest or the said administrator, save for things to eat and in small quantities, but they may feast one another and give one another something to eat, and give alms honestly; and he is not to allow them to eat on the ground.

The administrator is to be given a proper salary, according to his work and commission, and the expense he incurs is to be paid half by us and half by the town or towns which will be under his care. And he is to be married so as to avoid the difficulties which might arise [otherwise], save in case a person is found in whom trust can be placed, although he is not married.

And so that he may the better fulfill his duty let him have written in a book all the caciques and Indian inhabitants and the persons there are in each house and town so it may be known if anyone goes away or absents himself or fails to fulfill his obligations.

In order that the Indians may be taught in our Holy Catholic Faith and well treated in spiritual things, there should be a religious or priest in each town who will have charge of teaching them according to the capacity of each one, and who will administer the sacraments and preach on Sundays and feast days, and make them understand that they are to pay tithes and first fruits to God for the church and her ministers for confessing them and administering the sacraments and burying them when they die and praying God for them. And he will oblige them to attend mass and sit separately the men from the women.

These priests will be obliged to say mass each feast day and, during the week, on whatever days they choose, and they are to provide that masses be said in the towns on feast days in the churches they will build there, and they are to have for their work the part of the tithes which falls to them, and the altar gifts and offerings. And they are to oblige the women and men to offer what they will, *cazabí* or *ají*, and the priests will not take anything else for confessing and administering the sacraments or for assisting at burials. And on week days and feast days they [the Indians] will be called together by a bell and taught in matters of the Faith, and if they should refuse to come let them be moderately punished for it, and let their punishment be public as a warning to others.

There will be a sexton—an Indian, if one can be found; otherwise, one of those who serve in the church—and he is to teach the children up to nine years to read and write, especially the children of caciques and of other important men of the village, and also he is to teach them to speak Spanish; and he is to do all he can to make all the caciques and Indians speak Spanish.

Also let there be a house in the center of the town for a hospital for the care of the sick and aged who wish to be taken, and for their maintenance let them make on their lands in common a farm of 50,000 *montones* and have it weeded. And in the hospital there will be a married man with his wife, and he will beg alms for them and support himself on them. And, since the butchering is to be in common, as will be explained below, let [meat] be given to the man and wife who will be there and to each poor person received in the hospital, a pound for each one, in the sight of the religious or priest, so as to avoid fraud.

The inhabitants of each village and the males of over twenty and under fifty are to be obliged to work, in the following manner: a third of them will always be in the mines, and if any of them are sick or incapacitated, others are to be put in their

place; and let them depart from their houses for the mines at sunrise, and when they eat [at noon] they are to have three hours of rest and return to the mines until sunset. They are to be assigned every two months as the caciques shall decide, so that there may always be a third of the men working in the mines, for the women are not to work in the mines unless they go of their own and their husbands' consent; and in case any women go they are to be counted as men in the ratio of one to three.

The caciques are to send the Indians in their charge divided into squads with the foreman that may be needed to make them work in the mines and take out the gold and do what the [Spanish] miners have been accustomed to do, because it has been learned by experience that it is not fitting that there be Castilian miners or farmers, but only the Indians themselves.

After they have served their required time in the mines they are to return to their homes and work on their land as much as they can, and as much as their cacique and the priest or administrator think they should do.

And because the cacique will have more work and because he is a superior, all the inhabitants and workmen are to give him fifteen hours of work a year, whenever he wishes, to work on his farm, without his being obliged to give them food; and the women and children are to weed his farm as many times as is necessary.

The Indians who remain in the village are to be compelled to work a just amount on the common land and on their own farms, and also the women and children.

To bring about the above we give you permission to take the necessary land and stock and that most convenient for the location of the towns, common lands as well as flocks, estimating their just value so the Indians may be paid for them out of the first meltings; and the common lands are to be divided among the inhabitants, to each his just share, while they are making other

farms [for themselves] on the land assigned to them; and the cattle are to be placed in the hands of the principal cacique so that the Indians may be provided with them, as will be explained below.

If possible, each town of 300 is to have 10 or 12 mares and 50 cows and 500 pigs and 100 breed sows. These are to be kept at common cost, as will be explained, and this is to be done in common until they [the Indians] are skilled and accustomed to keep their own.

There will be a butcher in each town who will give each household half an *arrelde* [two pounds] of meat while the husband is in town and not at the mines, and when he is at the mines his wife will be given a pound, and if there should be need of more meat for his household and family he is to raise it with his family and provide it; and on meatless days he is to provide for himself as best he can; and the cacique is to be given two *arrelde*s [eight pounds].

The cacique will have the women whose husbands are at the mines make the bread, whatever is necessary, from their own farms, and the cacique will have it brought in on the common mares, and the *aje*z and maize and *aji* and everything else necessary.

There will be a butcher at the mines, and he will give each one of those working a pound and a half or two pounds of meat, as will seem best. And so that he may be the better provided with meat, it is fitting that some part of the herd which is to be killed be kept near the mines, and if there should not be sufficient meat from the common herds for those at the mines, others are to sell meat at a just price, and it is to be charged to them and paid for at the first melting.

The gold taken from the mines is to be all in charge of the foreman, who will have charge of the mine every night, as is the custom. And when the melting time comes, which will be every two months, or as the officers think best, the foreman will join

with the principal cacique and the administrator, and they will bring the gold to the melting, so it may be done faithfully, and the product of the melting will be divided into three parts, one for us and two for the cacique and the Indians.

From the two parts of the gold which belongs to the cacique and the Indians, we order paid the lands and herds that will have been taken to make the towns, and all the expenses that will be incurred. The rest will be divided equally among the families, the cacique receiving six parts and the foremen who go with the Indians two parts each.

From the part which goes to each family the tools and other things necessary for taking out the gold will be paid for, and these will be the property of each one, and will be registered in a book so he may be obliged to give account of them. And with what is left the cacique, or the priest and administrator, is to buy clothing and shirts and a dozen hens and a cock for each house, and other things they may think necessary for their houses, putting it in writing so they may give account of it. And if anything be left it is to be placed in the keeping of a good person who will give account of it when he is asked, an account being made in writing of whose power it is in and how much belongs to each one, as the priest and administrator shall think best.

Twelve Spanish miners, paid by the common fund, half by the Indians, are to be in charge of locating mines, and as soon as they have discovered any they are to leave them to the Indians to take out the gold, and they will proceed to discover other mines, and no Spaniards or servants of Spaniards are to remain there so as not to steal the gold and injure them [the Indians]. And the gold which these twelve take out while discovering the mines is to be common and is to be divided between us and the Indians in the manner above prescribed, and a large penalty is to be put on this.

Remedies for the Spaniards who are there :

Some of them are to be helped by having their estates bought as described above ; others by being given the administration of the towns, and others by being employed as miners ; others by being given permission to mine gold on their own account or for their families, paying only the tenth part of what they take out, if they are married and have their wives with them, and those who are not married will pay one-seventh. Others [will be helped] by being given permission to possess two or three slaves, men and women equally so they may multiply ; and those who have Indians in encomienda or other privileges, by being allowed some compensation or by receiving some other gratification for it.

It would also profit them for us to order them given caravels supplied with provisions and other necessary things so they may go and take the Caribs who eat men, as these are slaves, because they have refused to receive preachers and are very troublesome to the Christians and to those who are converted to our Holy Faith, and they kill them and eat them. And those that they bring let them divide among themselves and use them ; but, under color of going to take Caribs they are not to go to other islands or to Tierra Firme and take the men who live there, on pain of death and loss of goods.

The Spaniards now in the islands are to be rewarded if they will go to settle in Tierra Firme, because they have been reared in the islands and are used to the country and are better equipped and prepared to live without danger in Tierra Firme than those newly arrived from here.

And because some of them owe many debts, to us as well as to others, and will not have the means to pay them after their Indians are taken away, you may make them some gratification so they may not be arrested and imprisoned if they attempt to go to Tierra Firme or to other islands.

And so the towns may be well organized you should have trades taught to some of the Indians, such as carpentry, masonry.

blacksmithing, lumbering, tailoring, and such, for the service of the State.

We command that the old Christians [Spaniards] who injure the Indians be punished by our justice, and the Indians are to be competent witnesses against them, at the discretion of the judge; and all this that we order for the island of Española is to comprehend all the other islands.

And in case it is found that the first remedy of making towns and having the Indians live in them is not possible, and it still seems best that they be given in encomienda as heretofore, you will provide henceforth as in the following articles:*

First, the seven determinations and conclusions given by the junta by order of the King, our lord and father, whom God cherish, concerning the treatment of the said Indians, are to be observed, and also the four others, in so far as they order that women, and children of less than fourteen, are not to be obliged to serve save in the manner prescribed. The rest of the conclusion is not to be observed, as will be seen below.

Also those parts of the first and second laws which prescribe that the Indians be brought to the towns and estates of the Spaniards are not to be observed, because by experience and opinion it has been found that many troubles have arisen from this, both in regard to their instruction in the Faith and the ill treatment of their persons.

The eleventh law, which concerns the use of Indians as carriers, should be abrogated, and it should be ordered that they are not to be made to carry any burden on their backs, or in any other way.

The fifteenth law, which concerns the giving of meat only on feast days, it seems should be amended, and it should be ordered that they be given meat every meat day of the week, and *cazabí*

* The articles given below refer to the Laws of Burgos and their amendments, q.v., in the text.

and *aje* and *aji* while they are working, and on meatless days fish or other things which they may have to eat.

The eighteenth law, which concerns the services to be performed by pregnant women, should be disregarded, and it should be ordered that no woman be forced to work save on her own farm, and in the manner prescribed in the last four conclusions.

The twentieth law, which concerns the wages which should be paid, each Indian, it seems should be amended, and since one peso gold a year is a very small wage, they should be given much more, especially if some of it is to be given to the caciques.

The twenty-first law, which concerns those who use Indians who are not theirs, should have its penalty increased as you think best.

The twenty-fifth law should be amended, and it should be ordered that only the third article be observed, so that those who go there afterward may be rested and be able to work.

The twenty-seventh law should be amended [to read] that the miners may not work on shares, as they have been doing, and taking part of the gold they mine, but are to be given a certain daily wage, and they are to take oath before the visitor that they will not make the Indians work to excess, and the miners are to be men of good conscience, and not those who heretofore have oppressed the Indians.

The twenty-eighth law should be amended [to read] that for the present Indians are not to be brought from other islands except the Lucayos until further instructions are received.

The twenty-ninth and thirtieth laws should be amended [to read] that visitors and other officials are not to have Indians, but are to be given a salary by us, and not by the Spanish inhabitants so they will not do what they [the Spaniards] wish.

The thirty-first law should be amended, and it should be ordered that the visitors during the year should visit every place where there are Indians; and there should be more than two visitors, so that they may the better perform their duties.

You should observe the last law, which says that if the Indians at any time should be found capable of living in order and of governing themselves, they are to be allowed to live by themselves; and let them be ordered to serve in those matters in which it is customary for the other vassals of this country to pay services, tribute and dues to their lords. And you are to see if any of those there now are capable of this, and provide for it; and also, as soon as you see that it is fitting to bring this about, provide all the most convenient means for it and for their instruction in the Faith, both for these and the inhabitants of the said islands. Prepare those measures which you think best and send them here so that they may be examined and the necessary instructions sent you.

FRAY F. CARDENALIS YSPAENSIS,
ADRIANUS AMBASIATUS.

By command of the Queen and the King her son, our lords,
the governors in their names:

JORGE DE BARACALDO,
ZAPATA,
CARBAJAL.

—Seal—

APPENDIX II

INSTRUCTIONS OF CARDINAL XIMÉNEZ DE CISNEROS TO BARTOLOMÉ DE LA CASAS, SEPTEMBER 17, 1516*

The King and Queen to Bartolomé de Las Casas, cleric, native of the city of Seville, resident of the island of Cuba which is in the Indies:

Whereas we are informed that you have been in those parts for a long time and have resided there and hence know and have had experience of matters there, especially those which regard the good and profit of the Indians, and that you know their manner of life from having lived with them, and as we recognize that you are zealous in the service of Our Lord, from which fact we hope that you will carry out with diligence and care what is commanded you, and that you have regard for that which is for the health of the souls and bodies of the Spaniards and Indians who reside there:

By this letter we order you to go to those parts of the Indies, to Española, Cuba, San Juan and Jamaica, as well as to Tierra Firme, and advise, inform and give your opinion to the devout Jeronymite Fathers whom we are sending for the reformation of the Indies, and other persons who will work with them, concerning all matters which have to do with the liberty, good treatment and the health of soul and body of the Indians of the said islands and Tierra Firme, and to write and advise us and come to inform us of everything which will be done and ought to be done in the said islands, and in everything to do what is fitting for the service of Our Lord we give you complete authority, with all its incidents and corollaries, conditions and conclusions, and we

* Fabié, *Vida de Fray Bartolomé de Las Casas*, I, 58-59.

order our admiral and judges of appeal and any other magistrates whatever of the said islands and Tierra Firme to protect you and have this authority observed, and to go against neither its tenor nor its form; nor are they to allow it to be violated at any time or in any way, on pain of our displeasure and a fine of 10,000 *maravedís* for everyone so doing.

Done in Madrid, September 17, 1516.

F. CARDENALIS,
ADRIANUS AMBASIATOR.

By command of the Queen and the King her son, our lords,
the governors in their names,

GEORGE DE BARACALDO.

APPENDIX III

GRANT OF AN ENCOMIENDA OF INDIANS ISSUED BY THE
LICENCIATE RODRIGO DE FIGUEROA, OF THE AUDIENCIA
OF SANTO DOMINGO, JULY 15, 1521*

I, the licenciado Rodrigo de Figueroa, oidor of the royal audiencia of appeals, who by command of his Majesty reside in these parts, judge of commission of Indian affairs of this island of Española for the Emperor and Queen, our lords, do inform you, the alcaldes ordinary of this city of Santo Domingo, that I have been petitioned by Esteban de Pasamonte, a resident of this city, to give him license to use the Indians that belong to Martín de Gamboa, deceased, whom God cherish, and who have been set at liberty, in as much as he says that the said Indians will be glad to serve him.

This matter having been examined by me, and in consideration of the fact that they wish and consent to serve the said Pasamonte for just wages as free persons and will be more profited thus than in any other state, I have ordered this instruction issued by which I command you, the said alcaldes, each and all of you, to go where the said Indians are and inform yourselves about them, first giving them to understand that they are free and that his Majesty commands and wishes that they be not given in encomienda to any person, but that they are to be and live like Spaniards, and that the latter are not to do violence to them, but they are to be and live together, and what they produce shall be for themselves. And after having informed them of the above you will tell them that if they wish to come and enter the service of Esteban de Pasamonte he will pay them very well;

* D.I.I., I, 436.

and if they are satisfied with it, you, the said alcaldes, each and all of you, in God and good conscience, will fix what seems just to you to be paid them each year, so that the said Pasamonte may give it them for the time they may serve him. And let this be set down before a notary, so that, although the said Indians or any of them do not serve the full time, they may be paid for the time they have served and not lose anything; and with all of this I charge your consciences.

Done in the city of Santo Domingo, July 15, 1521.

THE LICENCIATE FIGUEROA.

By command of the said lord licenciate.

JUAN RAMOS, notary of his Majesty.

APPENDIX IV

RODRIGO DE ALBORNOZ, CONTADOR OF NEW SPAIN, TO CHARLES V,
DECEMBER 15, 1525*

[Albornoz gives account of the Honduras expedition of Cortés, which was undertaken against his advice, and the death of Cortés and all his men, which he has been at great pains to verify. He urges his Majesty at once to appoint a new governor and an audiencia. He complains of the rebellious attitude of the Cortés party in Mexico.]

The Franciscan friars, Sacred Majesty, of the convent of San Gabriel who came to this country for the conversion of the Indians have given such an example in their lives and works in bringing them to a knowledge of our Holy Catholic Faith that with their industry and desire to serve God and your Majesty, and their good disposition and sense, they have converted and brought to the Faith a great number of people.

[Albornoz urges that more friars from this same convent be sent to New Spain, as they have been instrumental in pacifying the turbulent factions in Mexico.]

As your Majesty has been informed, the people of these parts eat human flesh, because their ancestors became accustomed to it, as well as because of the scarcity of cattle in these parts, and also because, being accustomed to human flesh, it is sweeter to them than that of the fowl and game which they have and raise. Since the country has been under the administration of your Majesty, with the friendship and intercourse of the Christians,

* D.L.L., XIII, 45-84.

NOTE.—In this and the two following documents those parts not pertinent to this work have been summarized in brackets.

they have been eating the fowl of Castile, and pork, and mutton, and veal, and beef, and the other flesh that they see the Christians eat, and they prefer the wine of Castile to the *pulque* which they use for wine, and which resembles beer, although it is not.

And as they are reasonable people and do a great trade in buying and selling everything in which they can earn their living, by selling to the Christians, raising Spanish fowl, and setting out gardens and tending them, and raising cattle, being as much given to this as the farmers of Spain and more subtle and quick, it is fitting for the service of your Majesty and the settlement and increase of these parts of the world, that the officers of Española, San Juan and Cuba should permit the free shipment of cattle, cows, mares, sheep and rams, to this country, because there is an abundance there, and a lack here. They have been shown a letter of your Majesty, but it is said that in Española they have not allowed the shipment of certain mares which were being brought to this country.

If your Caesarean Majesty should order the Indians to be given in perpetuity, either in encomienda of their free will, or in any way your Majesty may be pleased to order, it will be for the good of your service that those who are given Indians, either in perpetuity or for a period, be obliged to sow a certain quantity of land with Spanish wheat, so that the people who are here and those coming will settle and take root and decide to remain in this land, which is as fertile as Spain and resembles it. There is wheat here already being produced in the places where the Indians sow it. And let them [the settlers] plant a certain number of feet of vines and trees and grains and vegetables of Spain. And let it be obligatory upon each to plant them within a year or year and a half after being granted his Indians, and [to raise] a certain number of cows and sheep and mares, and to have a horse and arms according to the number of Indians he has, and [to do this] in sight and at the discretion of the governor and the officers of your Majesty. Thus, since the land is so fertile

and so like Spain, they will cultivate it and the people will remain in it, Christians as well as Indians, and your Majesty will have much greater tribute from it, and the people will not be so ready, as they are, to leave it and go back to Spain, and strip the Indians, for now they see that they have no security in their possession. This is the cause of the ruin of your Majesty's islands and of the increase and settlement of those of Portugal, for the Portuguese are great colonizers.

[Albornoz begs his Majesty to order all ships coming to New Spain to bring plants and grains from Castile.]

As your Caesarean Majesty has learned, and as those of your high council have learned, the Indians of these parts are very intelligent and peaceful and accustomed to work, and are as used to paying tribute to Montezuma and their overlords as the farmers of Castile. As they are already in the way and manner of the latter, and as your Majesty has ordered us to bring this about as the best and surest means for the increase of your revenue, I have attempted to encourage them to continue in their adoption of the manners and customs of the vassals of Castile. And although several [Spaniards] have interfered with me, moved by their private interests, as your Majesty must know, I came to an understanding with the cacique of Zacatula, which is on the coast of the South Sea where two ships are being built, and I sent an officer of mine to him after talking with him, and we agreed as to what he was to contribute to your Majesty every four months. It was that he should give two cups of gold and two bars, and maize and cacao beans, which are like almonds, and which they use here for money and for their beverage. When the four months were up he came with it at the very time he had agreed upon; and in the same manner we agreed upon ordinary tribute with the lords of Zascatecla and with those of this city of Temixtitán. And thus it would have been done with all the provinces and towns of this New Spain if we had not been interfered with by some known to your Majesty.

[Albornoz wishes his Majesty to send a competent person as governor. He will have all the natives paying tribute within a year if he is allowed to follow his plan.]

And your Majesty may believe that if, for this purpose and the relief of the country, since God has disposed of Hernán Cortés, you do not send a governor who will be of age, authority and wisdom, and free from cupidity, and one who will believe that he is coming only to serve your Majesty, this country will be ruined and nothing will ever be done for the good of your Majesty's service. These lands are so far from the presence of your royal Majesty, and the remedies for the evils committed are so late in coming, that many bad servants are raised up, and we all stretch our consciences, and some never think that your Majesty will remember to punish those who are disserving you here and so shamelessly go against your service.

In this country, as your Majesty knows, there have been, with licenses procured there [at Court], expeditions into provinces and tribes to take slaves, under color that they have refused to render obedience to your Majesty. These [licenses] were procured by delegates who have gone there [to Court] in the name of this country, although they go generally to do only what is in the interest of those in power. Your Majesty ordered that demands first be made of them [the Indians] before a notary, and with the help of interpreters who were to give them to understand that they were to come under the dominion of your Majesty, and that if they refused to do so, they would be captured and made slaves. If in this case, most Catholic Lord, all the precautions had been taken which they gave your Majesty to understand, and which are fitting for the service of God and your Majesty, and which your most holy and right intention and that of your high council dictated to you, it would be very well and very holy. But, although St. Luke says in the name of Our Lord in his fourteenth chapter, and as some say here: *Compelle eos intrare . . .*, it should not have been done here with tricks and

frauds, or for the sake of robbing them or making them slaves, but by inducing them with words and practices to adopt our Faith and the service of your Majesty.

As I have learned, it has often happened that when the Indians of some province went to offer their obedience, and in peace, the Christians fell upon them and made those who were following understand that they did not wish to be friends, but to kill them. They did not want the Indians to offer them obedience, so they might rob them and make them slaves. Thus great havoc has been wrought, and will be wrought, in this country, and its people ruined, together with those who might have come under the dominion of your Majesty, unless you do not order the remedy immediately.

In no wise should this [slave taking] be allowed without great cause, because it is a heavy charge on one's conscience. Your Majesty gave permission to the people of this country to buy from the Indians the slaves they have among themselves, but much abomination and cruelty is also practiced against these. Your Majesty was given to understand there that the Spaniards were to buy them, but they are rarely bought. The Christian demands gold of the cacique, and if he says he has none, or he has it and gives it him, he is required to give a hundred or two slaves besides. And if perhaps the cacique has not so many, for the sake of obeying he takes others of his vassals who are not slaves. And in order to content his employer the Christian forces them to say they are slaves, although they are not. If their cacique demands it of them they will suffer death rather than admit they are not slaves, for they are very obedient to their lords. Thus great harm will come to the land if your Majesty does not order this remedied, and you do not inform yourself about those who go there [and who should have] greater zeal and less greed.

And in order that your Majesty may provide for the good of your service, I shall tell the advantages and disadvantages which

there seem to be in this business. The advantage which comes from the said slaves is that, if there are many of them in the power of the Christians, more squadrons of them will be sent to the mines, and more gold and silver and other metals will be produced, and the revenues and the fifth of your Majesty will be increased, and the Christians will establish more plantations with them. And, since they are in the power of the Christians, they, especially the children, will become Christians, and some of the Christians will teach them in the Faith, although few of us do so as we should.

The harm, Catholic Majesty, that is done the Indians by making them slaves and branding so many is that the greatest service and aid that the Indian lords have for settling and cultivating the land and giving tribute to the Christians by whom they are held in *encomienda*, is in having slaves, whom they use a great deal in this. In the second place, as the Christians demand of them much more than they can give, in order to satisfy the Christians, with ten slaves that they send them they send six others who are not, and sometimes these are branded as slaves, because they themselves say they are slaves so as to satisfy their lords. In the third place, when the *caciques* have not enough vassals they bring some of their own children and sell them to one another, for some of the Indians have from ten to twenty wives, especially those who are chiefs, and it happens that one man will have twenty or thirty children, and it seems that they have this as a commerce, just as the Christians use animals. In the fourth place, the Indians make slaves of one another for very slight matters: some are purchased from their parents for ten or twelve bushels of maize; another is purchased from his father for seven or eight blankets, which they use for clothing; another is made a slave because he stole ten or fourteen ears of maize; another, because he was fed while a child for half a year or a year. And thus for very slight reasons and in jest they make slaves of one another, and for such frivolous reasons

that while I was present examining slaves, one said he was not a slave. Asked whether his parents were, he said that they were not, but that one day while they were at their *areytos*, which is their feast day, someone had a drum which they use in their feasts like the people of Spain, and he took a notion to beat upon it, and as its owner would not let him beat upon it without pay, and as he had nothing to give him, he said he would be his slave. So the other let him beat it that day, and thenceforth he was his slave, and afterward he had been sold three or four times in their *trianguéz*, or fairs, which they hold daily. Thus even musicians are sold, which is a laughable thing and very harmful for the conscience as well as for the service of your Majesty.

Besides this, if great moderation and care are not exercised, the slaves will diminish daily, although the land is well populated, because the slaves taken in the cold provinces to be brought to the mines in the hot country die and diminish from the labor as well as from the heat, and the same holds with those brought from the hot country to the cold, although not so much.

And inasmuch as I have tried to find a remedy for this situation, most Puissant Lord, which will be the best for the service of God and your Majesty and for the settlement of this country and the increase of your revenues, I have talked with many about this matter, and it seems that since there are advantages and disadvantages on either side one should choose from each that which is best and most fitting for the service of Our Lord and your Majesty; that is, we should not cease from trying to bring these slaves under the power of the Christians; neither should we do as now, stretching our consciences, but pursue a middle course.

Let your Majesty command that of those slaves whom the caciques give to the Christians those whose parents were slaves be branded, as well as those who are or have been taken in war, or for causes which to those of your holy council seem just or permitted by law. Those who are slaves for the frivolous

reasons which the Indians have used among themselves should not be branded or made slaves, since God Our Lord has been so good as to wish to enlighten them and bring them under the service and dominion of your Majesty, to be saved and brought to a knowledge of our Holy Faith so your Majesty may win the reward for all the service which in this matter will be done for Our Lord.

However, as the caciques will bring slaves who have been made for frivolous reasons, and the Christians will not brand them or keep them, the caciques will bring them back to their villages and will sell them again, as they have done and do every day. So these will be slaves whether the Christians will take them or not. Let your Majesty order that such as are slaves for frivolous reasons be left in the power of the Christians without being branded, and be given to them as *naborías*, provided they give oath they will not brand them in secret or make them slaves. And let there be a book in which a record will be made of the *naborías* which each one takes.

[Albornoz volunteers to keep such a record. His Majesty may inquire of the licenciado Zuazo and the friars of the monastery of San Gabriel as to the truth of his report on the slaves.]

I have demanded paid, very Catholic Lord, your Majesty's fifth of the slaves that the Christians have taken from the caciques, since they are given instead of the gold which they used to give, but I have not been able to have it paid as it should be, because everything is in a state which your Majesty will learn about at greater length. And because of this state of things nothing will be done until your Majesty sends the remedy and punishment necessary for this country, and commands that the fifth be paid of all the slaves which the caciques have given to their masters, or should give in the future, because these are not purchased, but are given instead of the gold they used to give. However, since this has to do with those who are in power, nothing can be done until your Majesty commands it executed

with penalties, and commands that your provisions and ordinances be better observed than has been the case.

[Albornoz here discusses the establishment of ports, the appointment of officials, the search for the passage to the South Sea which has not been found, the spice trade route, the rich islands to the south, etc.]

Some of those, Caesarean Majesty, who have been in these parts and have had experience in affairs here, say that the reasons for their destruction and diminution are that they find them rich and fertile, and that none of them, great or small, has any care for anything except to make himself rich and to try to make enough to go back to Spain. Thus they exploit the country and take what they can, and flay the Indians, and when they think they are going to get a great deal more out of them, there is no more, and they are done. And, since there is nothing more to be had from the Indians, they necessarily have to mistreat them, as they do daily. And if they should try to conserve the country, like other matters of profit, and if gold mining were not everything, they [the Indians] would be conserved for many years. Thus it is said that it would be very profitable for your Majesty to order three or four thousand farmers from Castile and Andalusia to come here to settle with their wives and families, and each one to bring his tools for farming and the planting of vines and trees, and they should be distributed here in the provinces as the coming governor and your Majesty's officers should decide, each one to be given one or two hundred Indians to administer, or have as his own to use on his farm, so as to impose upon them the manners of work and life which the Spanish farmers have. These Indians are so quick-witted and peaceful and strong and so intelligent that in two years they would take over the Spanish manner of living, and hence would accept with better grace the order for tribute. They are so ingenious that they see nothing that they do not improve upon, even to making lutes like those of Spain and double faced

tapestry in the manner of Flanders, although they have not yet succeeded in making the faces. And if your Majesty should approve of giving these farmers their Indians in perpetuity, or for life, and have them belong with the estate, they would come to settle the more willingly; and your Majesty may believe that if the Indians are not given in perpetuity the country will be ruined and no one will remain in it.

[Albornoz begs that the ordinance against lawyers be repealed, as they are increasingly needed in the great number of law suits. He urges again the need of an *audiencia*. He recommends the organization of the church of New Spain under an archbishop. He complains that greedy bishops might claim a tithe of cacao beans used by the Indians for money, as one did in the island of San Juan. The bishoprics of New Spain are rich enough without it.]

For the instruction of the sons of *caciques* and *naborías* in the Faith there is great need for your Majesty to order the establishment of a college where they will be taught reading and grammar and philosophy and other arts, so that they may become priests, for they will do more good, each one, than fifty Christians to attract others to the Faith. For their support and the buildings there is a small place next the lagoon where there will be pasturage, as the person who has it now is doing nothing with it.

Your Majesty might also order a convent for women where the daughters of the principal chiefs could be taught the Faith and handicrafts, and where they would have some one to keep them in order until marriage, as is done with the *beguinas* of Flanders.

[Albornoz here discusses the possibility of falcon culture in New Spain, gold shipments, a house for the reduction of metals, corruption in the payment of taxes on gold and silver, prospecting in Michoacan, the debts of Cortés, the marking of boundaries between provinces, the need for honest judges.]

Also, most Puissant Lord, as your Majesty has been informed many times, the Indians of these parts are many and able, strong, of great stature and fond of war, and so intelligent that they need only to be drilled and to have arms in the manner of the Christians. And being so quick-witted, they are becoming accustomed to it, and they see that horses and Christians die from a blow or a lance thrust like them, whereas they formerly thought they were immortal, and two or three hundred would fly from one or two on horseback. And now it happens that an Indian will make a stand against a Christian on foot, a thing which they would not have done before, and ten or twelve Indians will attack a horseman on one side and as many more on the other and seize him by the legs. Then, seeing how the Christians fight and arm themselves, they do the same and secretly try to collect arms and swords; and they can make pikes with the gold which they give to the Christians, because in the quarrels which there have been among the Christians who have come to lord it over one another they have used the Indians against one another.* This is a bad thing and worthy of rigorous punishment by your Majesty. Besides this, they teach the Indians to fight, so that some day when they have the opportunity or have the equipment they will not leave a single Christian, and with our own arms and tactics. And your Majesty may believe that if this is not remedied by chastizing the Christians who have used Indians against other Christians and have given them arms, and by prohibiting it with heavy penalties [such as] loss of life and goods, this country will be lost before long.

Moreover, in order that this country may be perpetuated it seems to those who have had experience here that your Majesty should see to its settlement, and grant privileges to those who are here and to those who are to come. They hold that your

* The passage is evidently corrupt. The sense seems to be that the Christians hire the Indians in their private wars and the latter arm themselves with the proceeds.

Majesty, in order to perpetuate the land and be served more loyally than heretofore, should not fail to give Indians to those to whom you have granted Indians in perpetuity, for those who have governed here, even for three days, give Indians, and with this they are better obeyed than if they were lords of the land. And as they give them and take them away again when they please, and as they are not given with your Majesty's authority, they seek present rewards rather than their duty. If the Indians were given by the hand of your Majesty, and he who governs were not able to take them away, your Majesty may believe that the country would be more obedient than it is now, and that every one would have a different manner of treating the Indians from that used at present when they believe that they will lose them tomorrow. And when your Majesty orders them given, let it be that the one to whom they are given be married, and if he is not, let him marry within a year and a half, for in this time he can bring his wife—if he has one—from Castile. If he does not marry let him lose his Indians and what he has earned with them. And let each one plant vines and trees on his land, and whoever sells or gives arms to the Indians, let him lose his estate and life. And since the land is so good, your Majesty may believe that if it is remedied, it will be perpetuated and in it you will have other kingdoms and empires.

[Albornoz here includes arguments for the removal of Mexico from the lagoon to the land.]

If in any of your lands, Caesarean Majesty, it was ever necessary to prescribe the manner of life of your subjects and vassals, here it is even more necessary, for, as the land is rich in food and gold and silver mines, and everyone becomes swollen with the desire to spend and possess, by the end of a year and a half he who is a miner, or a farmer, or a swineherd, no longer wishes to be so, but wishes to be given Indians, and so he tries to spend everything he has in ornaments and silks, and the same for his wife, if he has one. And in the same fashion the other

mechanics cease pursuing their trades and incur excessive expense, and do not work or take gold or silver from the mines, thinking that the Indians they are to be given will serve them and support their families and their gentility and will mine gold for them. Thus daily the country is being ruined and your Majesty's revenues and fifth are decreasing, and nothing is taken from the mines, and the people themselves are ruined and poor and laden with debts which they cannot pay, and so they go to jail or wander from island to island, to their ruin and death. I have heard many times from those who have been a long time in these islands that in the days when silks and brocades were not brought here, the people were busy in the mines, and the best man in the land enjoyed going to them, and the least had six or seven thousand pesos in bars and was trying to send them to Castile to his family or relatives. But now that all are gentlemen and will not apply themselves to gold mining, there being the best equipment for it that there ever was in any land yet discovered, because of the many slaves and the numerous population, the one who ought to have most in the country is in debt, and thus everything is ruined and daily is getting worse.

It is necessary for your Majesty's service and the increase of your revenues and the good of all your vassals and the prevention of the country's ruination, that you order the law concerning silks and brocades to be enforced, so that no one shall wear even a ribbon, except on one skirt, or a little more, and that Indians be not given to mechanics who have been miners, farmers, swineherds, tailors, shoemakers, or any other mechanic, but they are to work at their trade as in Castile; and if they know a trade they are to work at it on pain of loss of goods. I certify to your Majesty that the wives of mechanics and the public women wear more silks than the wife of a gentleman in Castile, and thus all are poor and ruined, and they destroy the poor Indians, who are the best servants in the world. Thus if superfluous things were avoided, they would set about taking out gold and silver, and

your Majesty would have more revenue and the people could better send it to Castile, and there would be fewer frauds and debts among them.

[Albornoz is sending fuller information by Lope de Samaniego, who will give his Majesty account of everything.]

From this your great city of Temixtitán, December 15, 1525, your Caesarean and Catholic Majesty's very humble vassal and servant who kisses your royal feet and hands,

RODRIGO DE ALBORNOZ.

APPENDIX V

THE BISHOP-ELECT OF MEXICO, DON FRAY JUAN DE ZUMÁRRAGA,
TO CHARLES V, AUGUST 27, 1529*



I. H. S.

Sacred Caesarean Catholic Majesty:

May the grace, peace and mercy of Our Lord, Jesus Christ, be with your Majesty.

I beg your Majesty, with all the respect I owe you, to condescend to read all of this my letter, which is true and exact, written with the sincere and loyal purpose of serving God and your Majesty, free from all passion, being what your Majesty has most desired from this country. In it will be found the universal remedy for the Spaniards and natives here and their physical relief and help, and the relief of your Majesty's royal conscience. As your Majesty ordered me to do this and I accepted it as a cross and martyrdom, I shall tell what is happening, although in so doing I shall risk nothing less than my life, in case this letter is taken by those who would spare no pains to have it, as I have been warned. But it would be well spent in my duty to God and your Majesty and my fellow men, and any persecution that I may suffer from this, although it is not desired, is blessed by that Judge who judges with equity and whom no one can deceive.

[Zumárraga here reviews the history of the feud between the Cortés and Velázquez factions in Mexico; the imbroglio during Cortés' absence in Honduras in 1524-26; the usurpation of the

* Joaquín García Icazbalceta, *Don Fray Juan de Zumárraga*, Appendix, 1-42; D.I.L., XIII, 104-179.

government by the factor, Salazar; the return of Cortés; the arrival and death of the *juez de residencia*, Luis Ponce de Leon; the coming of the first audiencia under the presidency of Nuño de Guzmán; their jealousy of Cortés; their coalition with the factor, Salazar, and persecution of the Cortés party; their seizure of encomiendas and abuse of the natives; they add the interpreter, Pilar, to their party.]

And so, with the advice of the factor and the machination of this Pilar, the interpreter, the president and oidores sent messengers throughout the peaceful part of the country, and to all its lords and important persons, commanding them to appear before him, and when they arrived the said Pilar made them long arguments in the house of the president and in secret, and I believe and certify to your Majesty that it was not for the purpose of baptizing them, and that they did not come empty-handed. Nor were they [president and oidores] displeased with their coming and their offering, for no one remained without his present. With these presents their greed was awakened and, forgetful of everything contained in your Majesty's instructions, they took this as their especial care, as those who advised them most in it counselled them to do, because So-and-so and So-and-so had done so and had become rich and prosperous. Thus in view of their present interest they accepted the advice, so that up to today it has not been noticed that they have been careless in anything concerning their interest. They have been unfeignedly cautious in this matter, for a special chapter of their instructions forbids them to have Indians, and in obedience to your Majesty's command in truth they have not taken specific Indians of whom it could be said: So-and-So or So-and-so has these Indians in encomienda; but I certify to your Majesty that it is the opinion of those who live in this country, and mine, that it is the Indians that the president and oidores have used and are using at present, and are profiting by them, in a number greater than 100,000, for they are using the Indians who were reserved for

your Majesty and those of Don Hernando Cortés, and especially those of this great city and the towns of the lagoon, and those of the city of Cuyuaacán, Chalco, Tamancaico with its subjects, and the city of Tezcuco with its subjects. Of these they demand provisions and clothing and other things in such quantity that, of the excess in their houses and beyond what they give to their friends and servants, they have made warehouses for maize and clothing; and this is sold publicly by a certain Lerma, a baker and confectioner, and agent of Delgadillo. For this purpose they have given him Indians, although he came from Spain only a short while ago to work at his trade; and a certain Antón, a shoemaker, who was forbidden [to remain in the country(?)] and was condemned to lashes by the Inquisition, is the agent of Matienzo. And these two are so intimate [with the oidores] and favored by them, in spite of their good and bad points, that, after the factor, no one is more acceptable to them, and they privately and continually eat at their tables.

These Indians serve them in public for their maintenance, and as many others in the mines, furnishing the squadrons of slaves who mine gold for the president and oidores and their servants, and other [Indians] are building great palaces for them of many rooms and living quarters. They are building beautiful houses for them, sumptuous and pleasant. They are building for them near this city, mills and other properties of great value. Not twenty days ago the mills of the president were finished which are in the center of an Indian town called Atacubaya and in its principal part, six mill-wheels together, surrounded by a great garden which the lord of that village had. From this the natives receive not a little pain and sadness, not only because they have been deprived of what is theirs, but because their town has suffered such damage that they will be forced to seek a new site for it; and, worse yet, the water the poor Indians used for irrigation is now taken for the mills, and without it they can by no means live.

The licenciado Delgadillo has done the same thing, for in the town of Tacuba he has taken a great garden with many groves and flowers which belonged to another lord, against his will, and there he is building a very excellent pleasure house. And in the same town of Tacuba the licenciado Matienzo has taken another place against the will of the owner, and there at present he is building mills, a very extravagant thing.

I point this out, not mentioning many other houses, farms, places where they keep their herds of cattle, in the best part of the country, no matter from whom or how [they are taken]. And so I conclude by saying that they have been greatly enriched by the quantity of Indians serving them as slaves in the mines, taking out gold; by the possession of many sheep, cows and mares; and, finally, if what many affirm is the truth, what any one of them, the president and oidores, has acquired in the short time they have been governing is worth more than 25,000 to 30,000 pesos each.

Likewise, since the audiencia came, they have declared vacant many and very good encomiendas of Indians, more than thirty of them, either by the distribution [disappearance, death(?)] of those who held them, or by confiscation. Although there are many conquerors who are without them and who have well deserved them—these are the ones your Majesty especially commanded to be provided for—they have been given not a single Indian; rather, in order to strengthen themselves in their passions and preserve themselves from opposition, they have given them in the following manner:

[Zumárraga here gives a catalogue of the encomiendas distributed by the audiencia, in every case to their henchmen.]

And with all this abundance there has never been the slightest provision made for a conqueror among the many who are daily crying out to them for help. There are married men and settlers who are suffering great want, and it is necessary for your royal conscience that these be provided for before the others.

[Zumárraga shows that all the offices in the country have been distributed in like manner among the supporters of the audiencia.]

I have already described, most Puissant Lord, how the president and oidores, through the machinations of the factor and their desire to enrich themselves, called all the lords of the land to them so as to have profit from them, guided by the interpreter, Pilar; and so it was that lords came from great provinces with their presents and offerings. I forgot to say that there came a lord named Casulzín, the greatest of all those here after the great lord Montezuma, for he is the lord of the great province of Mechuacán, which is the richest in gold and silver. The president kept this lord in his house next to his own bedchamber for more than two months, and would not let him leave, as in a prison, and there he daily made him long arguments through that interpreter to persuade him to have his vassals ransom him; and it has been learned that he demanded of him 800 bars of gold of half-a-mark each, and 1000 of silver of a whole mark each, and he gave him wax samples of the size of both. And I know that the said lord sent messages to his country and that he was well ransomed; and the interpreter, Pilar, did not come away empty-handed from all this, for it seems that since the audiencia came he has paid off a great sum of pesos gold that he owed, and that his person and house are rich and ornamented; and it is said that he is making a great deal of money, having a good machine for it, for he has so much authority with the Indians that the lords bring him tribute as to the president and oidores. Seeing this I spoke to the president so he might remedy it, saying that it was not right for such a person as he was to have such an interpreter, who through his wicked speech and acts had been in danger of hanging two or three times. And this was like to have cost me dearly, for he told Pilar of it at once and sent him to my house, and he [Pilar] told me everything he wished and that came to his mind with great brazenness

and indecency so as to have satisfaction of me; and even the president told me that Pilar is a servant of your Majesty and that he would do a great deal for him, as he does. But I affirm and offer proof that this Pilar is from hell and a disserver of God and your Majesty, and that he deserves great punishment, which I do not expect him to receive in the present era.

As I think nothing should be concealed from your Majesty, I say that the lords of Tatelulco of this city came to me weeping so bitterly that I was struck with pity for them; and they complained to me, saying that the president and oidores were demanding of them their good-looking daughters, sisters and female relatives. And another lord told me that Pilar had demanded of him eight good-looking girls for the president. I answered through my interpreter, a guardian father, saying that they should not be given them, and for this reason, it is said, it was wished to hang one of these lords.

[Zumárraga tells of being threatened by Guzmán; his impious conduct; the president and oidores are ruled by their concubines, who are the real government of New Spain; they force the convent school for girls at Tezeuco and carry off two pretty Indian girls; Zumárraga is much disturbed by the razing of the leper hospital erected by Cortés; Guzmán is building several sumptuous dwellings on the site.]

Innumerable Indians are still working on them, being forced to work like slaves, without holidays and without a handful of maize being given them to eat. They have to carry all the materials on their heads and furnish them themselves. I have been told by trustworthy persons that on Corpus Christi several died in this work. Next to this house he has had a great piece of land enclosed by a wall, land which had belonged to Don Hernando, and he is making of it a pleasure garden, in scorn of God and His commandments and disrespect of His church and laws. So the guardian of Tamanalco charged my conscience with it, because I had not excommunicated [the president] and

denounced him for it, shedding tears in abundance. And when I reproved the president somewhat and did not cover it up, he mocked and scorned me.

[Zumárraga tells how the president and oidores have also persecuted and robbed Pedro de Alvarado and all those who were against the factor, Salazar. He includes here a long catalogue of the booty received by Guzmán, Delgadillo and Matienzo.]

As soon as I came to this county, most Puissant Lord, I was informed that the province of Pánuco, of which Nuño de Guzmán is governor, had been destroyed and devastated, because the said Nuño de Guzmán had taken from it a great number of its free natives, branded and sold them for the islands. And since I wished to learn more about the business—as it seemed very harmful and contrary to your Majesty's royal purpose—I have found and verified that as soon as Nuño de Guzmán was received in that province he gave a general license to all of its inhabitants [Spaniards] to take twenty or thirty slaves for the islands; and this was done. And as this trade came to the attention of the merchants and traders in the islands and they saw it was profitable, they came to the province of Pánuco, for their own interest and because Guzmán called them, and he himself sent to have ships fitted out for it. And things have come to such a pass that the whole province is dissipated and destroyed. 9,000 or 10,000 souls have been removed, branded as slaves and sent to the islands; and truly I think there were more, because more than twenty-one ships have sailed from there laden.

[Zumárraga here includes a catalogue of the slave ships and their owners.]

From this cause so much harm has come to the province and such has been the astonishment and terror of the natives, that they have decided to adopt as their best remedy, and it has been so ordered by their chiefs, to abandon their villages and fly to the wilderness, and that no one should have intercourse with his

wife so as not to have children to be made slaves of before their eyes and carried away from their country.

[Zumárraga describes Guzmán's persecution of the Spanish residents of Pánuco who signed a deposition against him.]

What is known of the fate of the poor Indian vassals of your Majesty who have been taken from the country is that three shiploads of them have sunk, and others have thrown themselves into the sea and were drowned; and thus others would do if they were not watched and guarded and kept in prison by the Spaniards so they may not kill themselves. Those who reach the islands, being very weak from hunger and thirst, as they are not given anything to eat, and afflicted by the narrowness of their quarters, upon reaching land foreign to their nature, catch diseases and pestilences and all die. This has been done on the pretext that license has been procured from your Majesty for it so that the merchants may follow this trade with better will. And if it is true that your Majesty gave such a license, for the reverence of God do very great penance for it.

From this evil custom and diabolical daring which Nuño de Guzmán brought with him from that province, it happened that as soon as he entered this city as president and found himself lord of the land, he secretly had brought together a great number of Indians of this province by means of Pilar, the interpreter, and sent them to Pánuco so they might be branded there and sent to the islands with the rest. Hence it has happened that the president and oidores, after having assigned the vacant encomiendas, as I have said, to their relatives and servants and to those of the factor, are giving many licenses to buy slaves to their footmen and others of lesser quality, as wages. These sell the licenses and gamble with them publicly, and those who buy them buy [the slaves], and thus many free Indians lose their liberty. And things are in such a bad state that if your Majesty does not remedy them soon, soon there will be no remedy, because the country is being ruined at a rapid rate. I am sending your

Majesty a deposition of witnesses in this matter, made secretly in my chamber before a notary, and by it you will learn what is happening; so I shall not touch further upon this matter.

[Zumárraga protests against the persecution of Cortés by Guzmán and his followers. He defends Cortés record. They have given to an apostate Franciscan, one Barrios, an encomienda taken from a married conqueror. They ignore Zumárraga's admonitions and threats, saying that he is not a bishop, but only a common friar. The factor, Salazar, is the moving genius of the group, and his power is as absolute as it was during the absence of Cortés in Honduras.]

And now, very Puissant Lord, I wish to give your Majesty, as briefly as I can, an account of what has happened to me with regard to the charge your Majesty gave me so urgently as protector and defender of the Indian natives of these parts, for it is well that it be known how your royal commands are being executed.

I arrived with the four oidores, as I have said, at the port of New Spain, and in a very short time it was published throughout the land among Spaniards and natives that I was coming as protector and defender of the Indians, appointed by your Majesty's hand, and that your Majesty had chosen me for it because of the special regard I had for them. And immediately I set out for this great city of Mexico, which is seventy-five leagues from the port. And when it was known among the Indians, who are as quick-witted as your Majesty has been informed, and they learned that I was coming, many lords of the country came to receive me on my way bringing gifts, for they are accustomed not to come empty-handed. These gifts I would not accept, nor any part of what they were bringing, and they showed joy and great rejoicing at my coming, thinking that I was coming from your Majesty to remedy their ills and give them justice for the wrongs they had received. I always gave them hope of this, making clear to them the intention of your

Majesty and the love you have for them. And I told them to go to the city of Mexico, and there I should speak with them and inform myself further, and with this I dismissed them. And after I arrived at this city and took lodgings in the monastery of San Francisco, a great number of lords and chief men of the country gathered together and came to see me and to learn what your Majesty commanded them. I spoke to them through a Flemish religious, Fray Pedro de Gante, a good interpreter, and told them that your Majesty had been informed that the lords of New Spain were very loyal vassals of your Majesty and have served you very well, especially those of the provinces of Guasucingo, Tlascala, and other provinces, and that for this reason and because they are vassals of your Majesty, you are not pleased that any harm or ill-treatment be done them; rather, that you wish them to be defended and maintained in peace and justice and that no one is to take from them what is theirs, so that they may live and dwell securely in their houses and towns, and that if anyone should harm them he is to be punished for it according to your Majesty's laws; and that if heretofore anyone had harmed them it had been against your Majesty's will and without your Majesty's knowledge; and that, since your Highness loves them a great deal as your vassals, you sent me here as their protector and defender; and that they were to believe that I was to do exactly as your Majesty commanded, for I should not dare do anything else so long as they were good, but, if they were bad, your Majesty commanded them to be punished.

I also informed them of the incomparably great boon that God had granted them by making them vassals of your Majesty and bringing them into contact with the Spaniards so they might be informed of the doctrine and faith of Jesus Christ, as your Majesty had also sent me for this purpose, that I might help the religious whom your Majesty had sent to them, and who had gathered such an admirable harvest among them. And in the same strain I told them things that seemed fitting, and that I was

not to take anything, and that they were not to give me gold, or silver, or clothing, or food, or anything whatever, and that I would not take it; nor should I dare take it even though they should give it to me, because your Majesty had sent me here to serve you in what I had told them, and had given me everything I needed.

They answered with many tears of pleasure, giving praise to God and thanks to your Majesty for having done them so great a favor, and other things of such sentiment and so well said and in such good form that I praised God, and your Majesty would have been comforted hearing them.

I made this speech to all the lords of this city and all the surrounding country and to others of many other places, and it became known to all the rest, and as the poor Indians have received so many robberies and so much violence and ill-treatment, and had heard that I was coming to them by command of your Majesty, they began to come to me with many complaints of devilish and abominable crimes. And as I began to exercise my office, taking depositions against the delinquents, and the factor, Salazar, saw it, he advised the president and oidores about it, telling them that if they consented to it they were lost, because they would not have the authority to rob the country, and the lords of it would not come at their call, and if they should come they would give them nothing, but would hold me as judge. And [he told them] that I should prevent them, and that they could not use a single Indian in constructing their houses, mills or plantations, and that they would thus live poorly; and that finally, with their [own] jurisdiction they would have all the Spaniards in the country in vassalage, subject and oppressed; whereas, if I had it, nothing would be given by their command, and that I could do them and their friends a great deal of harm if I should undertake to punish them for the infinite amount of violence and harm that they had done to the poor Indians; and this was, too, so that I might not learn the

secret manner in which the factor has been robbing the Indians of your Majesty that have been in his charge.

This seemed so well to the president and oidores that they decided to go against your Majesty's ordinance, holding their own interest as more important; and then they sent to command me that I was not to have authority in anything concerning the Indians, in hearing their complaints, directly or indirectly, as that was the pleasure of the royal audiencia, with a certain penalty, because I was not elected, but only presented or postulated, and that I was of no greater authority than any friar among my companions; nor would they allow me anything else, but that as such I might teach them [the Indians] if I wished, without any other authority.

I answered that we should meet and that they would again see the provisions of your Majesty, which they had already seen, and that it would be well for them to conform to what your Majesty commands and not to undertake anything else, because it would be a bad example to prevent such a necessary thing; and that they should know that since your Majesty had charged me with it, trusting in me and discharging your royal conscience, and that I had accepted it on my own, and although it cost me my life I was not to desist or to fail to shield and defend and give justice to the Indians, this being so necessary for the service of God and your Majesty.

When they saw my reply and determination they again sent me a public notary with witnesses and he notified me of another command, that I was not to exercise my office as protector and defender of the Indians, or to have to do with them directly or indirectly, because they were in charge of it, and it was their duty to provide for it as [representatives of] your Majesty, on pain of loss of my benefice and deportation, and that, in addition, they would proceed against my person, for I was not elected, but only presented, as I have said.

To this I answered as best I could, because in all this land there is not a lawyer who dares to advise me, or come to my house, or receive me in his. Even when the president was in the cabildo with the regidores, as is his habit, it was suggested that guards and spies be posted to see who should enter my house or speak to me, so as to punish him. Thus by his command it was published in the audiencia, the president and oidores being in that tribunal of your Majesty, that no Spaniard should come to me on any business concerning the Indians, on pain of losing them; and the Indians were commanded through the interpreter, Pilar, not to come to me with complaints, on pain of hanging. Pilar notified them of this and published it, with the additions and glosses he usually gives, and so it was soon known throughout the country. The natives were frightened and the Spaniards astonished, and no one dared speak to me any more than to an excommunicate. I am sending this order to your Majesty with the reply I gave them so your Majesty may read it.

[Zumárraga complains that, at the instigation of the factor, Salazar, the audiencia have published abominable lies about the Franciscan friars. These are so bad that he cannot offend his Majesty's ears by repeating them.]

At the time this was going on some Indians came to me with so many complaints about Spaniards that it was a wonderful thing, and I was astonished that they could stand it, the ill-treatment as well as the robberies which the visitors commit wherever they go, and of which I am sending your Majesty a deposition made secretly. One Spaniard I have heard of had such a diabolical spirit that he put a lord on a cross with three nails, like Christ, because he was not given all the gold he had demanded, and in this manner other Diocletian cruelties. Another killed and hanged Indians, because they did not give him what he demanded. I went to see the president about this, and he paid no attention; nor did he do a thing regarding the Indians, although he sees they are being killed.

The lords of the province of Guasucingo also came secretly to me to complain. At the time they were in the encomienda of Don Hernando Cortés and they said they served Don Hernando as his majordomo commanded them, and that they gave the tributes agreed upon. Some time before [they said] the president and oidores had put another tribute on them, and they considered it a worse one, as they were obliged to bring to the house of each oidor every day for his maintenance seven chickens, many quail, and sixty eggs, not counting the tribute they had to give to Pilar, or the wood and charcoal and other small matters, and a great quantity of maize; and they have paid it up to now, but can stand it no more, for it is a distance of eighteen leagues over a snow-covered pass, and many persons are necessary to come daily to serve, and for this reason they have used men, pregnant women, and children as carriers, and a hundred and thirteen of their number have died. And they begged me to aid them; otherwise they would make off to the wilderness, as they could no longer do anything else.

I made answer as best I could, telling them that such was not the will of your Majesty, and offering them a speedy remedy, and so they went secretly away consoled. I spoke to the president and oidores, with no little affliction for not being able to remedy it, telling them that some fathers had written this to me from Guasucingo, so they might not know that the Indians had come and complained to me. And I told them that your Majesty had commanded me to protect the Indians and that I could not ignore it, but must remedy it, although I knew that I might lose my life in it; and, in short, that they should moderate their demands to what was just, for many other towns served them, and to give me a memorandum of it, and that I should have it [the tribute] brought in, attempting to avoid those deaths. The president answered that they [the Indians] had to do what the audiencia commanded them, whether they died or not, and that if I meddled with defending them, they would punish me as the

bishop of Zamora had been punished; and that they were not going to moderate their demands or live under anyone's authority, but on their own, and that they would command me and take account of me, because they were my superiors, and that they were going to provide the church with chaplains and pay them out of the tithes, because I could only dispose of a part of them and not more.

A few days later the president and oidores learned that the lords of Guasucingo had come and complained to me, and they immediately sent an alguacil to arrest them. I learned of this, and that they had promised to execute them, and I sent word to them to put themselves in safety, and so they did, entering a monastery of religious in the same town. I went immediately after the warning to defend them and learn if what they had told me about the deaths and other abuses was true. And when I arrived the blessed religious had already learned of the villainies and infamies that the president and oidores had said about them in that libel [against the Franciscans]. The custodian was in the province of Tlascala, and when he learned that I was in Guasucingo near by, he came to talk and learn about what was going on; and, having learned the truth, he had all the principal religious and guardians of all the monasteries called, and with no little good will, [as] if God had inspired him, [he said that he would] leave this country and go back to Spain.*

When they had gathered there and the matter had been communicated to them, after prayers and discipline, at which I assisted, they passed a resolution unanimously that the best remedy was that one of the religious present of praiseworthy life and doctrine, a good man of law, should come to the monastery of San Francisco in this city and at the end of his sermon tell them what they had said, so they might fulfill their obligation, and that he should, after the example of Jesus Christ,

* The passage is obscure and probably corrupt, but this seems to be the sense of it.

tell them that through the goodness of God they had not broken their vows or the precepts of their rule, as the president and oidores had said.

It happened that it was the day of the Holy Spirit, and that the sermon was delivered in the main church, the bishop of Tlascala officiating at the mass, dressed in his pontifical robes. When the preacher had finished his sermon, and while he was still in the pulpit, he began to speak with great modesty, gentleness, and benignity, saying that he was now going to defend their good name, so that their doctrine might not be despised [as it would be if] the lives of the preachers were as bad as had been said, and that the least thing could not be proved or verified, and that each one should examine his conscience.

The president commanded him to desist and to say something else or get down out of the pulpit. The preacher answered begging them to listen for charity's sake, as he would say only what he was obliged to say and what was fitting for them. And the oidor, Delgadillo, ordered an alguacil to throw him out of the pulpit; and so the alguacil and others of the followers of the factor who were with him, crying out insults and giving him the lie, took the preaching friar by the arms and habit and threw him down from the pulpit, and it was a thing of great scandal and tumult, and so they were excommunicated from the mass.

The next day, the day after the Resurrection, as the provisor would not allow mass to be said in the church until they [the president and oidores] should be absolved, they commanded him by formal decree and sentence to be exiled from this country and all the dominions of your Majesty, and refused to admit an appeal, although in your Majesty's name he demanded it. They said that he was not a provisor, or I elected, and that your Majesty could not elect me, and that there was a great deal to be said as to the validity of the election. And they ordered an alguacil to take him at once and put him on a mule and bring him to the port and put him on board a ship. But he refused to

leave the great altar of the church where this took place; and so alguaciles were posted at the doors and it was proclaimed that no one was to bring food, on pain of death, either to him or to the priests who were with him.

When I learned this in Guasucingo, I came as fast as I could to throw water on it, as everything was on fire, and by sermons I softened matters in this fashion: with the consent of the licensee Matienzo they [the president and oidores] came and were absolved in the church of San Francisco—an absolution I had freely offered him in my sermons—and there, with the legal guarantee they had to give, so that the order or defamatory libel against the friars might not be had of them, they ordered the notary to bring it, and there they burned it so it might not appear, for if it were possible to have it I should send it also to your Majesty.

[Zumárraga writes that he and the religious have decided that the only solution will be a governor and audiencia who will be above reproach. He recommends the removal of the present audiencia as unworthy, the confiscation of the property they have acquired illegally, and the taking of their *residencia*.]

It is a very necessary thing, and one without which there cannot be any peace in this New Spain, that your Majesty grant the favor to Indians and Spaniards of giving the Indians in perpetual encomienda, so that those who govern the land may not remove them or suspend those to whom they are given, and so that those who have them may not lose them, except for the four given causes, and so that they may be given in entail to them and their heirs and successors forever; and that the conquerors have preference, and successively those who have best served in this country, giving the advantage to the married men and nobles who live here. From this many advantages would come: the Indians who are now confused, seeing that they change masters daily, have no peace or love; nor do they wish to serve the one who has them in encomienda, so they may keep what they

have for their next master; and for this reason they receive much mistreatment; and in order to avoid serving they make off to the wilderness. This they would not do if they knew they had a perpetual master, and without doubt they would settle down. And if those who govern are absolute rulers, having the power to give and remove Indians—Indians being the good and wealth of this country—they do their will against justice and with less opposition than your Majesty in those kingdoms with it [justice], and the Spanish vassals are so oppressed that they dare not speak, and I swear that they are more downtrodden than in any other place I have seen. This would not be true if they held their Indians in perpetuity. They would love them well and relieve them of work so they would stay with them, and for the sake of ceasing from devouring their children [-'s heritage]. And in their *encomiendas* they would plant vineyards and olive groves and they would make other improvements, to relieve their vassals of tribute and allow them to live as they do in Spain. From this, besides the civilization of the country, the royal patrimony of your Majesty would be increased and your royal conscience relieved. But now everything is ruined and there is no one who dares to plant a single thing, thinking that the next day it will be taken away from him. It is necessary that your Majesty remedy it, because until this is done, nothing will be settled. Let it not happen as in *Española*, that when the perpetual *encomienda* was granted, there were no longer any Indians to give. But your Majesty should be careful about whom you entrust the distribution to, because it is necessary that those who are to do it fear God and your Majesty, because in this lies the general welfare of the country.

Item: let the persons to whom your Majesty is pleased to entrust the protection and defence of the Indians, being of good conscience and trust, be given such complete power that those who govern may not have to interfere in anything, because [otherwise] there would never be lacking occasions for difference

and opposition. And let them have the power to make, add, and remove ordinances at their discretion, so that they will know which one is right and is the medicine for the cure of those who are harming them. And let this protector choose persons of conscience and trust to be alcaldes of the Indians, to judge their civil and criminal cases. And let there be no lay visitors, for experience has shown that they rob them. It seems to me that they ought absolutely to be religious and those of the greatest zeal possible, and that your Majesty should appoint Fray Martín de Valencia, of our order, and Fray Domingo de Betanzos, of the Dominicans, for they are two apostles.

Item! let your Majesty expressly command that those who are chosen as distributors of the Indians be not allowed to have Indians in encomienda, [either openly] or secretly, as the president and oidores have now, using the best and greatest number in the country, as I have said; and on this let the greatest penalty be put. And also let the president and oidores and the religious and your Majesty's officers residing in the country and receiving salaries, have neither Indians nor the power to have Indians in encomienda, since without them they will be more profited than anyone in the country with the fees and rights connected with their offices. This is very necessary, for the great number of Indians they now have is sufficient to provide for and take care of the many poor conquerors and needy persons in the country, and your Majesty will be well served to give them a living, as it is even a matter of conscience for your Majesty.

Item: silks are so common here that mechanics and servants of people of the lower classes, and women of the same class, and mistresses and spinsters go about covered with silks, capes and smocks and skirts and kerchiefs, and great harm comes to the country from this, for the inhabitants waste and ruin themselves and become poor and indebted, and the only ones to profit are the merchants. The worst of it is that in order to maintain this silk they skin the Indians of their encomiendas and keep every-

thing at a high price. Let your Majesty command that this be prohibited; and if this cannot be done entirely let it be done in part, and let it be declared who may wear it, putting at the top the conquerors and persons of quality, in the most moderate manner your Majesty thinks may be fitting, and let such as these be not forbidden to wear it.

Item: I have learned on good authority that since Nuño de Guzmán came as governor of Pánuco there have left that port twenty-one shiploads of slaves with his license and at his command, as commerce, and that he has taken out 19,000 Indians and more. My information comes from their owners. On this account the province is so devastated and ravaged that there is nothing left to govern in it, for, after most of the people had been removed, the rest fled to the wilderness from fear of being themselves taken. Let your Majesty command, for the reverence of God, that this infernal and destructive sack be forbidden and punished as a great crime; and [order] a prompt remedy for it so that this country may [not be destroyed]* as Nuño de Guzmán has begun, and [with this] I charge your royal conscience.

Item: the iron used for branding slaves is in the hands of people favorable to those who govern and is in their control, and these take no care to make the examination that your Majesty has commanded them to make, especially if the slaves belong to those who rule the country or to their friends and allies, and thus many errors are made and the free lose their liberty. As this is a grave matter for the conscience, let your Majesty provide that these wrongs be avoided and that your vassals be free.

It is necessary for your Majesty to remedy the giving of licenses to buy slaves and only allow them to inhabitants of the country for gold mining, and stop the present irregularity. Since the president and oidores came more than 1500 licenses for buying slaves have been granted, and many, or the majority of

* There is a hiatus here in the text.

them, to their friends, servants and footmen as wages, and these have no squadrons in the mines, but gamble with them [the licenses] and sell them. The remedy will have to be applied soon, because if there is any delay, in view of the speed [at which the destruction is going on] there will soon be no need of a remedy.

Item: the Indians are very badly used by Spanish travelers, who take them laden wherever they wish to go, like pack animals, and even without feeding them, and for this reason they suffer great harm, and even die on the road. This harm is principally among those who mine gold, because, in order to maintain the slaves which they have in the mines, they load the Indians they have in encomienda and send them laden thirty or forty or fifty leagues, more or less, and from this many die on the way. I have in mind one province called Tepeaca, which is now held in encomienda by the *veedor*, Pero Almindez, and from which they say more than 3000 free men, by the account of the lord of that place, have died on the road carrying supplies to the mines. And in other places there are greater and less numbers of deaths, so that all those who have been in this country since the beginning swear that there are only half as many natives as there were. I do not say that all have died because they have been used as carriers, for they were accustomed to bear burdens before the Spaniards came, but I do say that this immoderate loading is diminishing them very rapidly. And it is necessary for your Majesty to remedy it, because otherwise the end of this country will soon be seen, just as has been seen that of the islands of Española, Cuba and others, for this loading was the principal cause of their ruin.

It is fitting and very necessary that your Majesty again command and charge these reverend religious to work hard at the conversion of these Indian natives, for they see the many and great disfavours the president and oidores do them and are puzzled and disheartened, especially when they command the

Indians not to do what the friars tell them, giving them to understand that they [the friars] do not care for them so that they will despise them [the friars], and they command them to mistreat the boy disciples they send out to preach and teach the things of God in some places where they [the friars] personally cannot go very frequently, and to beat them, and other things like these. Let your Majesty expressly command that every one give these friars favor and help so the Indians may see and recognize what they knew before the president and oidores came: that those who have governed had respect for them, because they were religious and servants of God and so that the Indians would have it for them, and to give them an example. Believe, your Catholic Majesty, that the persecution of the friars and priests by the president and oidores is worse than that of Herod and Diocletian.

Item: it is also necessary for your Majesty to make royal ordinances in which you will show the manner and form which are to be observed in these parts for the good treatment of the Indians, so that the protector and defender may be guided by them and those who mistreat them be punished. Moreover, it seems to me that it would be well for your Majesty to command that all those who have Indians in encomienda be obliged to build churches in their towns, especially in the principal ones, so that every Sunday and feast day the natives may come to pray. And let the Spaniards who reside there be obliged to bring them together to teach them in the things of our Holy Catholic Faith; and next the churches let them build a great, high cross. And let the bishops be obliged to observe great diligence in this and enforce this with ecclesiastical penalties. And let those who have slaves in the gold mines be obliged to do the same.

Item: let your Majesty prescribe the penalties that the Spaniards will incur and how those will be punished who take from any Indian his wife, daughter or sister, or estate, or food, or anything whatever, or call them dogs, or beat them, or cut

them with knives, or strike them with their fists, or kill them. Here it is such a commonplace to abuse these poor Indians by robbing them and doing them violence that it hardly seems a crime. And I certify to your Majesty that since I came I have had account of an infinite number of ill-treatments and abuses committed against the Indians by various persons, and I have had an account of not a single punishment.

Item: as these Indians are so submissive that they have it as an ancient custom to give food to the Spaniards who come to their towns, and to the Indians they bring with them, all the time they are there, many vagabonds wander about from place to place with nothing to do, with two or even three Indian ^{girls}-tresses and as many Indians to serve them. Those who thus wander are the ones who principally do violence and robbery in the Indian towns, as has been seen and is seen daily; and it is even worse, for the Indians do not dare complain of the Spaniards who live thus. Your Majesty should order that no Spaniard having Indians in encomienda may send to his town any Spaniard whatever without his being first examined by the protectors and defenders of the Indians, who will take his bond that he will not harm them.

Item: since it has happened that some of those having Indians in encomienda have taken the daughters, nieces, sisters and wives of the principal men of their towns on the pretext of using them to serve in their houses, as if everything were their property,—God, Our Lord, being disserved and the Indians receiving great harm in this,—let your Majesty fix the penalty incurred by the one who commits such a crime, and let it be executed on him.

Item: since great harm comes from using the Indians as carriers, let your Majesty command and that no one may furnish supplies for the mines with the Indians he has in encomienda to a greater distance than fifteen to twenty leagues, because it is too much work for a human being; nor should they be allowed to load them with more than one or two *arrobas*, so that they

may also be able to carry their food for the journey, and for this let the penalty be fixed as your Majesty sees fit.

Item: since many persons treat their Indian slaves very badly, saying that justice has nothing to do with them—an inhuman and pitiable thing—let your Majesty order that the protector may proceed against and punish those who do so, according to law, as if he were harming a free Indian; or at least it should be provided that the Spaniards may not so treat them, or treat them as if they were dogs, or worse.

[Zumárraga here describes Guzmán's persecution of Alvarado. Guzmán is planning to get rid of Cortés' adherents by sending them to fight against the Chichimecas, so that if Cortés returns from Spain he will not be received by his friends, but will be arrested. This sending away of the best men is very dangerous.]

I was warned by letters from Father Fray Martín de Valencia, and other religious, that the natives were planning to rebel, for they were told by their Indian disciples that arms were being made in the country, and I was shocked, expecting that as soon as these men should go off to this fine war with the flower of the land, they [the Indians] would fall upon us and kill us, and your Majesty would lose this good land and the devil would regain the mastery of the land he lost. So I went to the lodgings of the licenciado Matienzo and told him what was going on, and petitioned him on the part of God and your Majesty to remedy it, as I did not dare reprehend him publicly; but that I would advise your Majesty of it, although they raised more witnesses against me than they have raised, and that the matter was very urgent, and that the war should cease, since I was informed that it was going to be carried on in the conquered provinces that are serving your Majesty, and that he was going to rob the caciques of all the gold and silver they had, especially Cazonzí in Meehuacán. He answered me in such wise that the harm is not being prevented, but all is on the point of being devastated

and ruined. For the reverence of God let your Majesty remedy it, because everything is rolling toward the abyss. I shall take it upon myself always to write about this and about other things that happen, so the service of God and your Majesty may not perish in this land, where it is more fitting that it flourish than in all the others of the world.

Unconquered Caesar, may God, Our Lord, guard and preserve the life and most royal person and most Catholic state of your Majesty for long years, with the increase of as many more kingdoms and dominions as your royal heart may desire.

From this great city of Tenuxtitán, Mexico, August 27, 1529.

Your Sacred Caesarean Catholic Majesty's faithful servant and chaplain,

FRAY JUAN DE ZUMÁRRAGA,
Bishop-elect of Mexico.

APPENDIX VI

FATHER FRAY TORIBIO DE MOTOLINÍA TO CHARLES V,
JANUARY 2, 1555*

Sacred Caesarean Catholic Majesty:

Grace and mercy and peace *a Deo Patre nostro et Domino Jesuchristo*:

Three things move me principally to write this letter to your Majesty, and I believe they will be the means of removing part of the scruples that Las Casas, bishop that was of Chiapa, has imposed on your Majesty and on those of your councils.

The first will be to inform your Majesty that when the Spaniards entered this country of New Spain the dominion of the country had been only a short time in Mexico or in the hands of the Mexicans. The Mexicans had won it or usurped it by wars, for the first and proper inhabitants of New Spain were a people called *Chichimecas* and *Otomíes*, who lived like savages, having no houses but huts and caves to live in. They neither planted crops nor cultivated the land, and their food and sustenance were herbs and roots and the fruit they found in the fields, and they ate the game they shot with their arrows on the ground uncooked. Neither did they have idols or sacrifices, but held the sun as god and invoked other creatures. After these, other Indians came from afar, from a land called Culua, bringing maize and other grains and tame fowl, and they began to build houses and to cultivate the land and clear it. And as they multiplied and were a people of more ability and capacity than the first inhabitants, little by little they became masters of this country, which in their tongue is called *Anahua*. Many years

* D.I.M., I, 253-277; D.I.I., XX, 175-213.

having passed, the Indians called *Mexicans* came, a name which they took or was given them from an idol and principal god that they brought with them, called *Mesich* or otherwise *Texclaticupla*. This was the idol or devil which was most generally worshiped in all this land, and to which very many men were sacrificed. These Mexicans made themselves masters of New Spain by wars, but the principal dominion of the country was first in the hands of the people of Culua, in a town called *Culuacán*, which is two leagues from Mexico. Afterwards, also by wars, the dominion was in the hands of a lord and a town called *Ascapualco*, one league from Mexico. Finally, also by wars, the Mexicans had it in *Tenuztillán*, Mexico, as I wrote at greater length to the Count of Benavente in an account of the rites and antiquities of this country.*

Know, your Majesty, that when the Marquis del Valle entered this country God, Our Lord, was very much offended, and men suffered most cruel deaths, and the devil, our adversary, was well served with the greatest idolatries and the most cruel homicides that had ever been, for the predecessor of Montezuma, lord of Mexico, named Avicoa, had offered up, in a single temple and at one sacrifice that lasted three or four days, eighty thousand and four hundred men. These he brought to the sacrifice through four streets in four files until they arrived at the place of sacrifice. And when the Christians entered New Spain there was a greater sacrifice than ever of dead men, killed before the idols. And every day and every hour they offered human blood to their devils on every hand. And, in the towns of this whole country, not counting many others, all the people observed a holiday for the service of the devils and idols in the sacrifices and services that they always and publicly made to them, not only in the temples of the devils, of which the whole country was full, but on all the roads and in all the houses.

* Published as the *Memoriales de Fray Toribio de Motolinía*. Luis García Pimentel, ed. (Mexico, 1903).

Well, then, having prevented and removed these and other abominations and sins and offenses which were made publicly against God and man, and having established our Holy Catholic Faith, raised the Cross of Jesus Christ everywhere and [brought about] the confession of His Holy Name, and God having wrought so great a conversion of peoples, where so many souls have been saved and are saved daily, where so many churches and monasteries have been built, more than fifty of which are occupied by the Franciscans alone—without counting the monasteries of Guatemala and Yucatan—and all this land living in peace and justice: if your Majesty could see how the holy feasts are celebrated in all New Spain and how devoutly the offices of Holy Week and all Sundays and feast days are celebrated, your Majesty would give thanks to God a thousand times!

Las Casas is wrong in saying what he says and writes and prints, and in the proper place I shall tell of his zeal and his works and what they amount to, and whether he helped the Indians here or harmed them. And now I humbly beg your Majesty for the love of God that, since God has discovered so near us the land of Florida—for it is not more than eighty leagues, which in these times and in this land are like eight leagues, from the river of Pánuco in the jurisdiction of Mexico to the great river of Florida, where Captain Soto was for more than five years. And the tribes subject to your Majesty extend beyond the river Pánuco, and before [one reaches] the river of Florida there are also many tribes, so that although the distance is great [it is] less. For the love of God have pity on those souls, and have pity and mercy for the offenses they have committed against God, and prevent the sacrifices and idolatries that are being made there to the devils, and command, with the greatest speed and by the best means known to you as a man and the anointed of God and captain of His Holy Church, that measures be taken whereby the Holy Gospel may be preached to those infidel Indians; but not in the manner ordered by Las Casas,

for in the expedition made by several Dominican fathers to preach to the Indians of Florida, made at Las Casas' instruction, nothing was accomplished save the expenditure of two or three thousand pesos by your Majesty for the equipment and provisioning of a ship, and, as soon as they landed, without even reaching a town, half of them were killed and the rest fled back to the ship, and here they had to tell how they escaped.

Your Majesty will not have to spend much, or send much from Spain, but only to order it; and I trust in Our Lord that in a very short while a great spiritual and temporal gain will follow. Here in New Spain there is a great store of what is required, for there are experienced religious who upon being commanded will go and expose themselves to every risk to aid in the salvation of those souls. Also there are many Spaniards and herds and horses; and all those who escaped from the company of Soto, who are not a few, wish to return there because of the fatness of that land. And this expedition is much needed for this country, because it opens a door for the many idle people whose occupation is to think and do evil. And this is the second thing which I, a poor man, beg your Majesty on the part of God.

The third thing is to beg your Majesty to command the men of law of your councils and the universities to consider whether the conquerors and encomenderos and merchants of this New Spain may receive the sacrament of penitence and the other sacraments without having a public instrument made by notaries and giving oath. Las Casas affirms that without these and other measures they cannot be absolved, and he imposes so many scruples on the confessors that nothing is lacking save sending them to hell. So it is necessary that this be taken up with the Pope, because it would profit some of us who have baptized more than three hundred thousand, and married and buried as many more, and confessed a very great multitude besides, to know whether we are to go to hell because we have confessed ten or twelve of these conquerors.

Las Casas says that everything the Spaniards have here is ill gotten, even though they have obtained it by trade, and there are many farmers and mechanics and others who have, by their sweat and industry, earned a living. And that this may be the better understood your Majesty should know that five or six years ago, as he says, I was ordered by your Majesty and your Council of the Indies to collect certain MS confessionaries that Las Casas had left here in the Indies; and I gave them to Don Antonio de Mendoza, your viceroy, and he burned them, because they contained false and scandalous statements. Now in the last ships that arrived at New Spain the said confessionaries have come printed, and have caused no little uproar and scandal in this country, because many times he calls the conquerors and encomenderos and merchants: tyrants, robbers, violaters, rapers, *predones* [sic]. He says that they have always tyrannized and today are still tyrannizing over the Indians. He also says that all the tributes of the Indians are and have been taken unjustly and tryannically. If such is the case your Majesty's conscience were in a pretty state, as your Majesty has half or the majority of all the more important provinces and towns of all New Spain, and the encomenderos and conquerors have only what your Majesty will give them. And [he says that] all the Indians they have should be assessed moderately and that they should be well treated and cared for—as by the grace of God almost all are today—and that they should be taught doctrine and given justice—and so it is done. But, nevertheless, Las Casas says all the above and more, so that his principal insults are against your Majesty; and he condemns all the men of law of your council, calling them many times unjust and tyrannical. He also insults and condemns all that are or have been in all New Spain, ecclesiastics as well as laymen, and the presidents and audiencias of your Majesty. Certainly the Marquis del Valle, and Bishop Don Sebastián Ramírez, and Don Antonio de Mendoza, and Don Luis de Velasco, who is governing now with the oidores, have

ruled and governed and are governing very well both Spaniards and Indians.

Truly, for the few canons Las Casas has studied, he presumes a great deal, and his disorder seems very great and his humility small, and he thinks everyone is wrong and he alone is right, for he says the following words literally: "All the conquerors have been robbers, rapers, and most of them more notorious for evil and cruelty than ever men were, as is now manifest to all the world."

"All the conquerors," he says, without excepting any. Now your Majesty knows the instructions and commands carried by those who go on new conquests, and that they labor to keep them, and that they are of as good a life and conscience as Las Casas, and of greater rectitude and zeal. I am surprised that your Majesty and those of your councils have been able to suffer so long such an ill-humored, unquiet, importunate, noisy, trouble-making fellow, as turbulent in his religious habit as he is ill-mannered, insulting, harmful and restless. I have known Las Casas since fifteen years before he came to this country. Once he started out for the land of Peru, but, unable to reach his destination, he stopped in Nicaragua, staying there only a short time. Thence he went to Guatemala, and stayed there even less; and afterward he was in the province of Guaxaca, and did not stay there either, as elsewhere. Then when he came to Mexico he stopped at the monastery of the Dominicans and immediately tired of it, and again took to wandering and going about in his trouble-makings, always writing accusations and about other peoples' lives, seeking out the evils and cruelties that the Spaniards had committed throughout this land so as to exaggerate and magnify the evils and sins that have been committed. And in this it seems he was taking the part of the devil, although he believed he was more zealous and just than the other Christians, and more than the religious, and here he hardly concerned himself with religion.

Once he was talking with some friars and told them that what they were doing was little, that they had not suffered or shed their blood, although the least of them was much more a servant of God than he, and served Him better and watched more over souls and religion and virtue, for all his importance. All his dealings have been with a few malcontents to make them tell him things to write conforming to his passionate hatred of the Spaniards, and to show that he loves the Indians a great deal and that he alone wishes to defend and favor them more than any one. In this he busied himself here a short while, save when he was using them as carriers and abusing them.

Las Casas came as a simple friar, and arrived at the city of Taxcala with twenty-seven or thirty-seven Indian carriers, called *tamemes*. At that time certain bishops and prelates were examining a bull of Pope Paul which concerned marriage and baptism, and at this time they silenced us, saying that we should not baptize adult Indians. And an Indian had come three or four days' journey to be baptized, and had asked for baptism many times and was very well prepared, catechized and taught. Then I, with many friars, begged Las Casas to baptize that Indian, since he had come from afar, and, after many prayers, he made many conditions for the baptism, as if he alone knew more than all, and truly the Indian was well prepared. And since he had said that he would baptize him, he put on his surplice and stole, and three or four of us religious went with him to the door of the church, where the Indian was kneeling, and I know not what vagary struck him, but he refused to baptize the Indian, and left us and went away. I then said to Las Casas: "So, Father, all the zeal and love which you say you have for the Indians ends with using them as carriers, and with going about writing of the Spaniards and abusing the Indians. Why, you alone use more Indian carriers than twenty friars; and, since you will not baptize or teach a single Indian, it would be well if you paid all those carriers you have with you laden and fatigued."

At that time, as I have said, he had twenty-seven or thirty-seven carriers with him—I do not remember the exact number—and the greatest part of what they were carrying was accusations and writings against the Spaniards, and other rubbish. And when he went to Spain and came back a bishop, he brought a hundred and twenty Indian carriers, without paying them anything; and now he is trying to have your Majesty and the Council of the Indies provide that no Spaniard may have Indian carriers, even by paying them well, as now they are well paid everywhere, and the only ones used now are three or four to carry bedding and food, because these things cannot be had on the road.

And afterward he always went about restlessly on the business of important people, and what he obtained in Spain was to have himself made bishop of Chiapa. And as he did not carry out what he had promised to negotiate, Father Fray Domingo de Betanzos, who was well acquainted with the matter, wrote him a long letter, very publicly, in which he described to him his life and disturbances and trouble-making, and the harm and damage which he had done with his indiscreet zeal and the information he had sent [back to Spain] wherever he went. And even now where he is he does not cease from doing the same, pretending that he is doing so from the zeal he has for the Indians. And he shows your Majesty or your councils a letter some one writes from here, and not always true, and by a memorandum he writes he has a general cédula issued, and thus he upsets and destroys the government and the State here; and this is what all his zeal comes to.

When he came as bishop to Chiapa, which is the head of his bishopric, the people of that city received him, because your Majesty had sent him, with great love and humility, and they established him in his church with the pallium, and lent him money with which to pay the debts he had brought from Spain.

And a few days later he excommunicates them and imposes on them fifteen or sixteen rules and laws for the confession, and leaves them and goes away. Betanzos wrote him about this [saying] that he had made rams of his sheep and had put the cart before the oxen.

Then he went to the kingdom called Vera Paz, which he says is such a great matter and of infinite people. This land is near Guatemala, and I have visited and taught thereabout, and I came very near, being two days' journey from it; and it is not one-tenth so great as is said there [in Spain]. There is one monastery in Mexico that teaches and visits ten times as many people as there are in the whole kingdom of Vera Paz, and the bishop of Guatemala is a good witness of it. I saw the people, and they are of less consequence than any other.

Afterward Las Casas returned to his trouble-making and came to Mexico and asked permission of the viceroy to return to Spain, and although it was not granted him, yet he went without it, leaving his sheep and the souls under his care abandoned and helpless, Spaniards as well as Indians. It would be just, if justice means anything to him, to make him return to persevere with his flock, at least two or three years, since he is more holy and learned than all the bishops who have ever been. And if he says the Spaniards are incorrigible he should work with the Indians, and not leave everything neglected and abandoned.

About four years ago two religious went through his territory and saw that by command of Las Casas Spaniards at the point of death seeking confession were not being absolved; nor was there anyone to baptize Indian babies, and these friars, I say, baptized a great many. He says in that confessionary of his that the encomenderos are obliged to teach the Indians in their charge, and it is true. But for him to say farther on that they never did so even in their dreams is not true, for many Spaniards themselves and by their servants have taught them the best they

could, and others, where there have been no friars, have put priests in their towns to teach the Indians and administer the holy sacraments.

A time was when the Spaniards did not want to see friars or priests in their towns, but for some time past the Spaniards have been getting friars, and their Indians have been building monasteries, and the encomenderos providing food, vestments and ornaments for the friars. It is not odd that Las Casas does not know this, because he never tried to know anything but the evil and not the good. He was restless in New Spain and did not learn any Indian tongue, or humble himself to teach them. His occupation was to write charges and the sins that the Spaniards have committed on every hand, and this is what he exaggerates a great deal. And truly this one activity ought not to take him to heaven, because what he writes is not all true or well substantiated. If one should care to note all the sins and atrocities that in the single city of Seville have occurred and those which have been punished by justice here in the past thirty years, he would find that more and uglier crimes and wickedness have been committed there than all that have occurred in New Spain since the conquest; that is, in thirty-three years.

One of the most pitiable things in all this land is the city of Chiapa and its subject territory, for after Las Casas came as bishop it was destroyed temporally and spiritually by his agitations. And God grant that it may not be said that he left souls in the hands of the wolves and fled, *quia mercenarius est et non pastor et non pertinent a deum de ovibus*. When a bishop renounces a bishopric and abandons the church that he has received as his wife there must be a very great reason for leaving and abandoning her, for the obligation and bond that unite him to her are much stronger than in a lower state, and so they are made with greater solemnity. And where there is no such reason such a renunciation is rather apostasy from the high

and very perfect episcopal state than anything else. And even if it were because of great infirmities or for the purpose of entering a monastery never to see man or human affairs again, even then we do not know if this bishop is very secure before God.

He has been trying to have himself made attorney at Court and to have it appear that the Indians are demanding him as their protector; and when the letter in which this was ordered was read in a congregation of Franciscans they all burst out laughing and had nothing to say to such nonsense. He did not show at Court the letters from the chapter or congregation of Franciscans. Moreover, he induces people here to send him money and commissions. These activities may be approved of by some, but I believe that your Majesty will abhor them, because it is clearly a temptation of our adversary to trouble your Majesty and others. Your Majesty should have him locked in a monastery so that he may not cause greater evils, for otherwise I am afraid he will go to Rome and be a cause of disturbance in the Roman court.

He calls the farmers, overseers and miners: depraved, inhuman, cruel executioners; and, allowing that there have been some who were avaricious and inclined to evil, certainly there are many more who are good, pious and charitable Christians, and many of them are married and leading virtuous lives. The story of St. Lawrence will never be repeated about Las Casas, how, when he gave the half of his sepulchre to St. Stephen, he was called "the courteous Spaniard."

He says in his confessionary that no Spaniard has kept faith with regard to wars, or the merchants in selling goods to them, and by this he judges hearts. He also says that no one has kept faith in the matter of the buying and selling of slaves; and he is wrong, because they were sold in the market-places with your Majesty's brand; and for some years there were many Christians *bona fide* and in invincible ignorance. But he says that they have always tyrannized over the Indians and are still doing

so. This also is against your Majesty. And, if I am not mistaken, in the past, after your Majesty had sent Don Antonio de Mendoza, the caciques and principal men of this country came together and solemnly and of their own accord renewed their oath of obedience to your Majesty, because they saw that in our Holy Faith they were free from war and sacrifices, and were living in peace and justice.

He also says that in everything the Spaniards have there is nothing that is not stolen, and in this he insults your Majesty and all who came here, those who brought their goods with them as well as the many others who have purchased and acquired their goods justly. These Las Casas dishonors by his writing and printing. Why must the Spanish nation and its Prince be slandered by one insolent person, for tomorrow the Indians and other nations will read it! He says furthermore that in all these years there has been no just war or conquest against the Indians.

[Motolinía here argues for the justice of laying tribute on the Indians, supporting his argument by tracing the history of empire in the Scriptures. He also argues that force should be used in spreading the Gospel if it is impossible by peaceful means.]

I should like to see Las Casas persevere for fifteen or twenty years in confessing daily ten or twelve sick Indians and as many healthy ones who never confessed before, and in learning other spiritual matters concerning the Indians. The best of it is that some one there to show his zeal tells your Majesty and your counsellors that Las Casas is not a friend of the Indians but of the Spaniards. Do not believe it. God grant that he avows himself a friend of God and of his own soul! What he is concerned with is the harm the Spaniards do the Indians, or the lands they demand here in New Spain, or the estates they hold to the prejudice and harm of the Indians. But times are not what they used to be, for now he who does damage of two pesos [to the Indians] pays four, and he who does damage of five pays eight; and in regard to the giving of lands, your Majesty could give the

excess unoccupied and uncultivated lands to Spanish settlers who might wish to devote themselves to working them, and to others born here who ought to have something, and this without harm to any one.

In the past ten years there have been a heavy mortality and great pestilences among the Indians, and so there is a great lack of people. In the places where there is the least scarcity they are two-thirds short, and in other places four-fifths, and in other seven-eighths. For this reason there is a great plenty of land everywhere, besides the uncultivated lands and warlike territories that were not planted.

In regard to the stock farms, the stock has been removed from every place where it did any damage, especially the greater herds, not because of a scarcity of land, but because they were kept without guards and, as they were not put into enclosures at night, they overran a great deal of land and did damage. For summer pasturage they have been given a certain time to enter and leave, with penalties, because here, by the goodness of God, there is someone to remedy it, and someone to watch over it also, like Las Casas.

[Motolinía enumerates and describes the lands available for pasturage.]

Since many Indians are now using horses, it would not be ill for your Majesty to order that no license be given for them to have horses, except to the principal chiefs, for if the Indians become accustomed to them many will learn to ride and will want to set themselves up in time as the equals of the Spaniards. And this advantage of horses and cannon is very necessary in this country, because it gives force and advantage to the few against the many. Know, your Majesty, that all this New Spain is deserted and defenseless and without any fort or fortress, and our adversary, the enemy of all good, who always desires and foments discords and wars and raises up perils under one's feet, and even if it were only because we are in a strange land and the

Negroes are so numerous that several times they have plotted to rise and kill the Spaniards. And for this [danger] the city of Los Angeles is in a better situation for the erection of a fortress than any other town of New Spain. It could be built there at less cost because of the many and good materials there; and it would be a security for the whole country.

The towns to which your Majesty owes most in all this New Spain are Tezcuco, Tacuba and Mexico. The reason is that each of these was a kingdom, and each of these lords held ten provinces and many towns subject. Besides this, among these dominions were divided the tributes of a hundred and sixty provinces and towns, and each of these lords was a little king. As soon as the Christians arrived these lords were required to receive the Faith, and they gave their obedience to your Majesty, and Tezcuco and Tacuba aided the Spaniards in the conquest of Mexico. The other lords of the land hold and possess their territories and pay tribute to your Majesty, because you are their lord and King, and because your Majesty administers the doctrine, the sacraments and justice to them and keeps the peace among them. Your Majesty gives them more than you receive from them, although Las Casas will not allow that this is true. The lords of Tezcuco, Tacuba and Mexico even took several of the estates subject to them and gave them in encomienda, and they would be satisfied if your Majesty gave them a small or medium sized town to serve the lord of Tezcuco, and another to his capital, and the same for the lord and town of Tacuba.

So much for temporal matters. As for spiritual matters, these souls are crying out for ministers. And, since many religious have left and are leaving Spain every day for these lands, if your Majesty should so order, there are many friars, servants of God, in Flanders and Italy, very learned men and very desirous of coming to these parts and working at the conversion of the infidels and nations who, I say, have been in this country. And today there are some servants of God who have

given a very good example and have worked a great deal with these natives. Moreover, the central church of Mexico, which is the metropolitan, is very poor, old and patched, for it was built flimsily twenty-nine years ago. It is just that your Majesty order it rebuilt and aid it, as of all the churches of New Spain it is the head, Mother and Mistress. So your Majesty should order this church, as well as the other cathedrals, be given each a town [in *encomienda*] as they had before, for there will be no *encomienda* so well employed in all New Spain. They have great need of these towns to repair, roof, clean, and adorn the churches and houses of the bishops, as all are very poor and in debt. Here shoemakers and blacksmiths have *encomiendas*, but the churches have much greater need of them, for they have no rents, or what they have is very little.

I say all this with the desire of serving your Majesty and informing you of what I think of this country and what I have seen in the thirty years since we came here by command of your Majesty and brought the bulls of Leo and Adrian that your Majesty had obtained. The cardinal of Santa Cruz, Fray Francisco de Quíñones, and Father Fray Juan Clapian, whom God cherish, had to come here with the bulls. And of the twelve of us who came at the beginning of the conversion of this people there are but two alive.

Receive this letter, your Majesty, in the spirit in which I write it, and let it not have more weight than is reasonable, just and right. And I remain the least of your chaplains, praying God that His grace will always dwell in the blessed soul of your Majesty so you may always do His holy will. Amen.

* * * * *

After having written the above, I have seen and read a treatise which Las Casas composed concerning the slaves made in New Spain and the islands, and another on his opinion as to whether there should be *encomiendas* of Indians. He says he

composed the first by commission of the Council of the Indies, and the second by order of your Majesty.

Now there is no man of any nation, allegiance or rank whatsoever who could read them and not consider the dwellers in this New Spain the most cruel, abominable, faithless and detestable people among all the nations under heaven. And this is the result of the uncharitable writings which proceed from a nature devoid of piety and humanity. I no longer know how things are in old Spain, because I left there more than thirty years ago, but many times I have heard friars, servants of God, say that Spaniards, God-fearing Christians, coming from Spain find here more Christianity, more faith, more frequentation of the Holy Sacraments and more charity and alms for every kind of poor than in Spain. And may God pardon Las Casas, who so greatly dishonors and slanders, so terribly insults and affronts, so many communities, the Spanish nation, its Prince and his councils, together with all those who administer justice in the name of your Majesty in these kingdoms! And if Las Casas will confess the truth, I call him to witness as to the number and size of the alms he found given here, and the great charity with which his unreasonable character was suffered, and the many persons of quality who entrusted many and important negotiations to him. And after he had offered to carry out their requests they paid him well, and hardly a thing did he fulfill of what he had promised. Fray Domingo de Betanzos, the servant of God, complained of this in the above-mentioned letter.

Las Casas should have been content to give his oath and say what he thought concerning the giving of Indians in encomienda to the Spaniards, and to write it, but not to print it with so many insults, slanders and vituperations. It is known what sin he commits who dishonors and slanders one person, but it is a greater one to slander many, and much great still to slander a state and nation. If Las Casas had called the Spaniards and the inhabitants of New Spain tyrants and thieves and robbers

and murderers and cruel bandits a hundred times, it might have been overlooked, but to call them so a hundred times a hundred times, to say nothing of the uncharitableness and lack of piety in his words and writings, and the insults and wrongs he does to all by speaking in his writings of your Majesty! It would be fitting for him to moderate himself and speak with some semblance of humility. And what profit or edification is there in words spoken without piety or humanity? Little, certainly.

I know not why Las Casas wishes to condemn a hundred for what one did, or why he wishes to attribute to a thousand the deeds of ten, or why he slanders all who have been here and all who are here, or where he found reason to condemn so many good men because of the few wicked ones. It is as if, because in Seville or Cordova a few thieves, murderers and heretics may be found, the people of those cities are all to be considered thieves, tyrants and wicked men. Well, Mexico and the other cities of New Spain have not been less obedient and loyal toward their King, and this is all the more to be praised because they are so far away from him. If what Las Casas writes were true, surely your Majesty would have great reason to complain of all those whom you have sent here, and they would deserve great punishment. Bishops and the major prelates would then be under greater obligation to protect and die for their sheep, and cry to God and your Majesty to save their flocks. Thus we see the good bishops of New Spain persevering in the duties of their charges and offices, and hardly resting day or night. And your Majesty would also have cause of complaint of the oidores and presidents whom you have provided in the audiencias at large salaries, for they have all been asleep and have upon their consciences the many sins that Las Casas mentions.

Your Majesty is not so careless or asleep as Las Casas says; nor does your Majesty fail to punish those who do not keep faith with you. The punishment was notable which your Majesty ordered given to an audiencia when it had hardly begun its func-

tions, for the oidores were imprisoned there [in Spain] and the president and governor of New Spain spent more than a year in the public jail here, and then went there [to Spain] to finish paying for his crimes.

Your Majesty should also be angered against the cabildos of New Spain, those of the churches as well as those of the towns, if they have not done their duty, for all have been established by your Majesty for the relief and government of your vassals and State. Your Majesty should also have the same complaint against the religious of all the orders sent here by your Majesty, with no little cost and labor to bring them from the provinces of Spain. And here you give them chalices and a bell, and some have received precious ornaments. With reason your Majesty might say then that they are all mute dogs who without barking or crying out allow the land to be destroyed. Nay, rather, almost all, each in his place, do what they should.

When I learned what Las Casas was writing I complained of the Council, because they allowed such a thing to be printed. Afterward I saw that the printing had been done in secret in Seville, at the time of the departure of the ships, in an underhand way; and I believe that this was permitted by God so the things of Las Casas might be known and answered, although it will be done with a different temper and charity, and more than the writings deserve, so that he may be converted to God and satisfy all whom he has harmed and falsely informed, and be able to do penance in this life, and also so that your Majesty may be informed of the truth and recognize the service which Captain Don Hernando Cortés and his companions have done you, and the loyal fidelity which this New Spain has always had for your Majesty, worthy surely of remuneration.

Know, your Majesty, that the Indians of this New Spain are well treated and have less taxes and tribute to pay than the farmers of old Spain, each in his own way—I mean almost all the Indians, for there are some few towns whose assessment was

made before the great pestilence and whose tributes have not been reduced. Your Majesty should order them assessed again. Today the Indians know and understand what they have to pay, and they will not give a *tomín* more in any way; nor will the encomenderos dare demand a cacao bean more than their assessment; neither will the confessor absolve them unless they restore it, and the justice would punish them when it was found out. And there is not that carelessness and tyranny that Las Casas mentions so many times, because, glory be to God!, there have been great care and zeal here in spiritual matters among the preachers, and vigilance among the confessors and among those who administer justice. And [there has been] obedience in the execution of your Majesty's orders concerning the good treatment and defense of these natives, and truly what I say is so in reality.

For the past ten years this country has been short of people, but bad treatment has not caused this, because the Indians have been well treated, looked after and defended for many years. Their diminution was caused by the very great sicknesses and pestilences that there have been in this New Spain, and the natives are diminishing daily. God only knows the cause thereof, for His judgments are many and hidden from us. I know not whether the former great sins and idolatries of this country are the cause [Motolinía draws parallels between the plagues of the Indians and those of the Old Testament], and God knows the cause of their destruction or that of the islands, for your Majesty and the Catholic Monarchs, of blessed memory, provided all the remedies that were humanly possible, and no human counsel or power suffices or has sufficed to remedy the situation.

It is a great thing that many souls have been saved and are being saved daily, and that many evils, idolatries, murders and great offenses against God have been prevented. What is greatly needed today is that your Majesty command stability to be given to this country, for it now suffers great detriment. And for this

purpose your Majesty has much information for the prompt establishment of the order that will most serve your Majesty and God, and this is most necessary for both the Indians and the Spaniards. Just as in Spain there are garrisons for the maintenance of peace and justice, and in Italy an army, and on the frontiers always armed men, it is no less necessary in this country. Don Antonio de Mendoza, viceroy of this country, said that if this land is not given stability it cannot last long; it will last ten or twelve years, or perhaps less, and with great detriment.

Throughout this country living is very high, and provisions, which used to be very abundant and cheap, are scarce, and although the people were poor, the poor and indebted Spaniards had something to eat. There are now many idle people waiting for the least opportunity in the world to rob the Indians, for they say that they are rich and the Spaniards poor and dying of hunger. The Spaniards who have anything are trying to make their fortunes and return to Castile. They go back laden with gold and silver, your Majesty's men as well as merchants and rich men, and the poor remain in want.

Your Majesty can see what will become of a country the government and King of which are a thousand leagues away. Already the state of the country is more favorable to the Indians than to the Spaniards, the reasons of which I will not give for the sake of brevity. I know your Majesty has the good will and knowledge and experience for the remedy of this country, and prayers will not be lacking for God to give you grace. I have confidence that you will succeed and that God will be served by whatever your Majesty decides to do, and that this country will be remedied.

In the treatise which Las Casas printed, among other things he errs principally in three, that is, in the taking of slaves, in their number, and in their treatment. In regard to the taking of slaves in this New Spain, he sets down three ways of taking

them, none of which is as he describes. It seems he knew little of the rites and customs of the Indians of New Spain. In the book I mention [i.e., Motolinía's book], part IV, chapters 22 and 23, will be found eleven ways of making slaves, and they are the ones we gave to the bishop of Mexico.

Three or four of us friars have written on the antiquities and customs which the natives had, and I have what the others wrote, and since I gave more work and time to it, it is not strange that I have the matter better in hand and better understood than any other. Also he speaks of the slaves that were made in war, and wastes no little paper on it, and in this also it appears that he knows little of what went on in the wars among these natives, because in them they made no slaves; nor did they trade in any that they took in war, but all were kept for the sacrifice, and such were the people generally who were sacrificed throughout this country. Very few others were sacrificed, unless taken in war. For this reason their wars were very continuous. In order to satisfy their cruel gods and celebrate feasts and honor their temples they went many places making war and seizing men to sacrifice to their devils and to offer their hearts to them and human blood. For this reason many innocent people suffered; and it seems that this is no slight cause of war among those who thus oppress and kill the innocent; and these with groans and cries begged God and man to succor them as they suffered death so unjustly. And this is one of the reasons, as your Majesty knows, why war came to be made on them. And they had this custom, that if any chief or lord of the prisoners of war escaped, the people of his own tribe sacrificed him; and if it was a man of the lower class, called *macehuales*, his lord gave him blankets. This and the rest that took place in the wars appears in the same book, part IV, chapters 14, 15 and 16.

Regarding the number of slaves, he sets down in one place that there were three millions; in another he says four millions. The provinces and places in which Las Casas says the slaves

were made are: Mexico, Guaxaca, Gualco, Pánuco, Xalisco, Chiapa, Guatemala, Honduras, Yucatan, Nicaragua, La Costa de San Miguel, and Venezuela, and he should have added, at least for the sake of humility, the coast of Parique [the Pearl Coast(?)] and Cubana [Cumaná(?)], and why he went there and what happened to him there. Almost all the places he mentions are in New Spain, and I have estimated the provinces and places where he said slaves were taken, rather more than less—I do not particularize so as not to be prolix—and altogether they do not reach two hundred thousand. [Motolinía here does some problems in arithmetic to show the size of Las Casas' error.]

Regarding their treatment,—I speak of New Spain, where almost all have been set free,—according to my information, in all New Spain there may be a thousand slaves yet to be freed, and these are being freed daily, and by the end of a year hardly an Indian slave will remain in the land. In liberating them your Majesty did your duty and even more, for you ordered those who possessed slaves to ascertain whether they were really slaves, practically an impossibility, the contrary being according to law. What you ordered was right, because the minority of them had been justly taken. He says that in all the Indies there was never a just cause to make a slave—this he knows who did not leave Mexico or its vicinity, and so it is no wonder he knows so little.

Las Casas was in this country a matter of seven years, and, as they say, he spent five of them in the streets [gossiping]. There have been friars in New Spain who have gone from Mexico to Nicaragua, four hundred leagues, and there were not two towns in the whole distance where they did not preach and say mass, teach and baptize children and adults, few or many. And the friars here have seen and learned a little more than Las Casas about the good treatment of the slaves. The officers of the government as well as the preaching friars and confessors—for

from the beginning there have been Franciscans, and afterwards came those of the other orders—and these always had special care that the Indians, and especially the slaves, were well treated and taught in all doctrine and Christianity and God, who is the principal doer of all good. Then the Spaniards began to bring their slaves to the churches to be baptized, taught and married, and those [Spaniards] who did not do so were not granted absolution. And now for many years the slaves and servants of the Spaniards have been married *in facie ecclesiae*; and I have seen very many married in the territory of Mexico, Guaxaca, and Guatemala, as well as in other parts, with their children, houses and goods, all of them good Christians and well married. And it is not just that Las Casas should say that the service of the Christians oppresses them unbearably, and that the Spaniards think less of the Indians than they do of their beasts and even less than the dung of the square. It seems to me to be a grave charge on the conscience to dare say such a thing to your Majesty, and, speaking with the greatest temerity, I say that the service the Spaniards take from the Indians by force is truly insupportable and very hard, and exceeds all the tyrants in the world, and vanquishes and equals that of the devils, and yet, even of godless and lawless living men such a thing ought not be said. God deliver me from anyone who would say such a thing!

The branding-iron called *de rescate* came to New Spain in the year '24, in the middle of May. As soon as Captain Dñn Hernando Cortés arrived in Mexico, which he was governing at the time, he met in the convent of San Francisco with the friars and men of law who were in the city, and I was present. And I saw that the governor was troubled by the iron and spoke against its use, and, since he could do no more, he greatly limited the license he carried to brand slaves, and those who were branded in excess of the limitations were branded in his absence, for he left for Higueras.

And some who murmur at the Marquis del Valle, whom God cherish, and wish to blacken and obscure his works, I believe before God that their works are not so acceptable as those of the marquis.

[Here Motolinía gives a long and highly eulogistic account of the services of Cortés to God and his Majesty.]

Through this captain God opened the door for us to preach His Holy Gospel, and he it was who forced the Indians to have reverence for the holy sacraments and the ministers of the church. And so I have written at such length somewhat to defend his life, for he is now dead.

May the grace of the Holy Spirit dwell always in the soul of your Majesty. Amen.

From Tlaxcala, January 2, 1555.

The most humble servant and least chaplain of your Majesty,

FRAY TORIBIO MOTOLINÍA.

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INDEX

- Adultery, attempted regulation, 35.
 Agriculture, advocated, 74.
 Aguilar, Marcos de: inquisitor, 90; succeeds Ponce de Leon, 90; restores Cortés, 90.
 Alborno, Rodrigo de: accountant, 88; letter to Charles V, 96; text, 210-223; on control of slavery, 106.
 Alcaldes mayores, proposed by Mendoza, 163.
 Alexander VI, Pope: bulls of donation, 19; purpose, 82.
 Albuquerque, Rodrigo de: *juez repartidor*, 37; allots Indians to priests, 40; number of Indians given in encomienda, 48; holds Indians himself, 56.
 Alguaciles: encomenderos to be made, 113; salary, 115; Indian, 115.
 Almanza (Secretary of Ferdinand): holds Indians in encomienda, 56.
 Almindéz, Pero. *See* Chirinos.
 Alvarado, Pedro de: goes to Spain, 97; his influence, 97; fined for gambling, 116; protests abolition of slavery, 123.
 Angulo, Pedro de, accompanies Las Casas, 144.
Areytos, 216.
 Ascapualco, conquers Mexico, 250.
 Atacubaya, Guzmán erects mill at, 101; 227.
 Audiencia of New Spain, First: appointed, 96; instructions, 97; forbidden to hold Indians, 98; cupidity, 98; accused by Zumárraga, 100-101; distribute encomiendas, 101; profligacy, 101; salaries held, 110; not allowed encomiendas, 110; fall, 110; failure, 111; suspend encomienda, 124; abuse of power, 225-231; oppose Zumárraga, 235; denounced by Franciscans, 239; excommunicated, 239; give licenses to buy slaves, 244; persecute religious, 244-5; punishment of, 266.
 Audiencia of New Spain, Second: personnel, 113; appointed, 113; instructions, 113-116; slow progress, 118-9; difficulties, 119; found Puebla, 119; oppose abolition of slavery, 120; changed attitude, 121; heavy labors, 121; complain of Cortés, 122; on slavery, 123; agree to distribution of Indians, 124; summary of first year's work, 126; against *corregimiento*, 131; recommend expulsion of Cortés, 131; protect Indians, 151; power to fix tribute, 153; discretion in regulation of slave trade, 180.
 Augustinians, to teach Indians Spanish, 185.
 Avicó (Lord of Mexico), gigantic sacrifice, 250.
 Ayllón, Lucas Vázquez de, holds Indians in encomienda, 56.
 Bahamas (or Lucayos): Indians brought from, 40, 42; depopulation of, 42.
 Bancroft, Hubert Howe: admiration for Las Casas, 13; uncritical acceptance of *Brief Relation*, 14.
 Barcelona, Junta at, 108, 151.
 Barrionuevo, Francisco de, treaty with Enrique, 145.
 Berrio: assists Las Casas, 141; abandonment of Las Casas, 141.
 Betanzos, Domingo de: persuades Las Casas to join Dominicans, 143; favors encomienda, 171; praised by Zumárraga, 242; reprimands Las Casas, 256.
 Blankets, price of, 177.

- Books, profane books prohibited, 161.
- Bourne, Edward Gaylord: his *Spain in America*, 15; new attitude toward Spanish colonization, 15; criticizes Las Casas, 15; defends Fonseca, 49.
- Branding: of *indios de rescate*, 94; iron in possession of Zumárraga, 110; iron in control of audiencia, 243; Cortés opposes, 271.
- Brief Relation*: handbook for historians, 1; vogue among foreigners, 2, 3; Latin edition, 3; a tract, 4; Robertson on, 6; its influence on Helps, 7; exaggerations, 8, 9, 10; date of writing, 9; effect on historians, 10; key-note of foreign criticism, 11; propaganda for New Laws, 11; accepted by Ellis, 12; accepted by Bancroft, 13-14; accepted by Waldman, 17.
- Brion, Marcel, his *Bartolomé de Las Casas*, "Father of the Indians," 17.
- Cabrero, Juan, holds Indians in encomienda, 55-56.
- Cacao, used as money, 126.
- Caciques: allowed servants, 52; forced to work, 53.
- Calpisques*: 115; abuse of Indians, 128; licensed, 185.
- Cannibalism, among Caribs, 77; among Mexicans, 80; described by Alborno, 210.
- Caribs, Columbus plans to enslave, 21; warlike character, 23, 24; Ferdinand approves enslavement, 35; general permission to enslave, 47; raids frequent in Porto Rico, 74; Figueroa advises enslavement, 77.
- Carriers: loaded to excess, 46; use forbidden, 46, 51; overloaded by travelers, 103-4; abused by Chirinos, 104; use regulated, 106; opinion of audiencia, 120; under control of audiencia, 125; regulations, 127; opinion of Council of the Indies, 134; use restricted, 152; Mendoza on, 181; restrictions, 183; mestizos forbidden to use, 183; relieved by roads, 184; abused by travelers, 244.
- Castellanos, Miguel de, accountant with Las Casas, 143.
- Casulzín (or Cazonzí, Lord of Michoacan): persecuted by Guzmán, 228; war planned against, 247.
- Cerrato (the Licenciado), calls Las Casas to Española, 145.
- Cattle: ordered kept from Indian fields, 184; damage from, 187; needed in New Spain, 211; removed from settlements, 261.
- Ceynos, Francisco de, oidor, 113.
- Charles V: removes Jeronymites from judiciary, 75; removes them from power, 75; refuses to receive them, 76; resolves to abolish encomienda, 77; decrees freedom of Indians, 77; forbids encomienda in New Spain, 82; his humanity, 83; instructions to Cortés, 82-84; mistaken policy, 86; resents Cortés' insubordination, 87; sends a *juez de residencia* to New Spain, 87; attempts to suppress encomienda, 87; capitulates on encomienda, 91; ordinance for slave taking, 94; Dominicans' influence over, 97; forced to consider colonists, 97; instructions to first audiencia, 97-98; calls junta to reconsider encomienda, 107; returns to Spain, 134; orders erection of churches, 135; permits use of carriers, 135; reestablishes slavery, 138.
- Chichimecas: Cortés' men sent against, 104; inhabit Anahua, 249.
- Chièvres, Cardinal, letter of, Dominicans to, 57.
- Chiribichi, Dominican mission at, raided, 142.
- Chirinos, Pero Almédez: *veedor*, 88; abuses carriers, 104, 244.
- Church: supported by natives, 138-139; Indians forced to build, 139; allowed to use Indian labor, 184; not opposed to encomienda, 189.

- Cisneros, Cardinal Ximénez de: receives Las Casas, 60; appoints junta, 60; accepts Las Casas' program, 61; ignores Las Casas' candidate, 61; a Franciscan, 61; chooses Jeronymites, 61; impatience with Las Casas, 62; his error, 63; reverses Las Casas' plan, 65; amends Laws of Burgos, 65; death, 71; instructions to Jeronymites, text, 191-205; instructions to Las Casas, text, 206-207.
- Civil officers (*see also* Treasury officers): paid in Indians, 56; this practice forbidden, 65; to administer Indian towns, 71; use carriers, 182; forbidden to use Indians, 183.
- Clapian, Juan, brings bulls to New Spain, 263.
- Clothing: Indians compelled to wear, 54; sumptuary laws, 222; Zumárraga complains of extravagance in, 243.
- Colima, government, 93.
- Colonists (*see also* Conquerors, Encomenderos, Spaniards): send emissary to Spain, 8; character of, 25; not drawn from laboring classes, 26; forced to use native labor, 26; helplessness of, 28; urged to marry natives, 29; starvation of, 30; Indians forced to serve, 31; contract to remain five years in Porto Rico, 34; send to Spain for wives, 35; few marry natives, 35; these held in little esteem, 35; starvation of, 36; Ovando protests against, 36; allowed to recover slaves, 37; no perpetuity of grants to, 41; pay head tax on Indians, 41; kidnap Indians, 42; unequal distribution of land among, 43; census ordered, 45; organize against Dominicans, 49-50; complaints reach Ferdinand, 53; receive nine months' service, 54; increased privileges, 57; encouraged to marry Indians, 57; these not to be discriminated against, 57; Las Casas plans to dispossess, 63; Jeronymites protect, 66; opinion on Indians, 68-69; need of farmers, 70; oppose Jeronymites, 71; married men preferred, 74; drawn from poor class, 74; privileges recommended, 75; character, 78; government attempts to satisfy, 95; future provided for, 98; enmity for Dominicans, 99; state under first audiencia, 102-103; block Barcelona resolutions, 108; arguments for encomienda, 108; disgusted with Franciscans, 121; discontented with corregimientos, 122; leave New Spain, 122; suspension of encomienda, 124; go to Peru and Guatemala, 124; to be attracted by corregimientos, 130, 134; motive for colonizing, 132; rights ignored, 134; children by Indian women, 135; difficulty of allocation, 139; Las Casas' colonists remain in Porto Rico, 142; danger of rebellion, 167; protest against New Laws, 173-178; return to Spain, 174; Mendoza's high opinion of, 186; Albornoz on, 218; internal warfare, 220; vanity, 221.
- Colonization, Spain unequipped for, 78.
- Conquerors (*see also* Colonists, Encomenderos, Spaniards): reputation for bloodthirstiness, 3; Indian women's passion for, 5; demand Indians, 81; unable to support themselves, 81; force Cortés to grant Indians, 81; receive encomiendas, 97; without encomiendas, 102; promised Indians, 124; defined, 128; given preference in corregimientos, 152; neglected by audiencia, 227; excommunicated, 252-253.
- Columbus, Bartholomew, sends Indian slaves to Spain, 21.
- Columbus, Diego (brother of Christopher), holds Indians in encomienda, 56.
- Columbus, Diego (son of Christopher); marriage to María de Toledo, 39; governor of Española, 39; instructions, 39-40; urges seizure of Indians of Trinidad, 44; advises using labor of caciques, 44.

- Columbus, Christopher: rebellion under, 20; sends Indian slaves to Spain, 20; plans slave trade, 21; his opinion of colonists, 25; third voyage, 25; demands native labor, 27; failure, 48.
- Columbus, Ferdinand, holds Indians in encomienda, 56.
- Communication, slowness of, 75, 84.
- Conchillos, Lope: holds Indians in encomienda, 55-56; *Las Casas* and, 59.
- Concubinage, prevalence of, 28; law against, 52; first audiencia accused of, 102; persists, 187.
- Contreras, Rodrigo de: governor of Nicaragua, 146; dispute with *Las Casas*, 146.
- Córdoba, Pedro de: brings Dominicans, 49; goes to Castile, 54; Laws of Burgos, 54; sends Montezino and *Las Casas* to Spain, 59.
- Corregidores: definition, 113; duties, 114; salary paid by Indians, 114; spy on encomenderos, 114; teach Indians, 114; to appoint Indian alguaciles, 115; to check abuse of overseers, 128; regulations governing, 158; teach Indians, 161; build churches, 161; support priests, 161; in disfavor, 185; not to collect tribute, 185.
- Corregimiento: to replace encomienda, 113; organization, 113; like *Las Casas*' plan, 114; salaries of officers, 115; opposition to, 122; encomiendas made into, 126; Fuenleal favors, 129; Queen gratified with, 132; favored by Council of the Indies, 134; a means to attract settlers, 134; Indians to be governed by, 152; given to conquerors, 153; weakness, 156; opposed by Mendoza, 164, 166; Dominicans against, 169; Bishop Zárate criticizes, 172; colonists expose, 175-176.
- Cortés, Francisco, instructions, 93.
- Cortés, Hernán: struck by Indian civilization, 80; resolves to prevent establishment of encomienda, 80; number of men with, 80; sends booty to Charles V, 81; precarious standing, 81; forced to yield on encomienda, 81; his defense, 81-82; ignores King's orders, 84; argument for encomienda, 85-86; gives Crown Indians in encomienda, 85; captures Garay, 86; bribes Tapia, 86; realism, 87; impudence, 87; advises perpetuity of encomienda, 87; claims great estate, 88; expedition to Honduras, 88; leaves government with treasury officers, 88; reported death, 89; returns to New Spain, 89; suspected of murder of Ponce de Leon, 89-90; restored as captain-general, 90; granted Indians, 90; Charles V complains of, 90; ordinances for government of Indians, 91-92; for government of Spaniards, 92-93; in disfavor, 96; resents Estrada's power, 96; goes to Spain, 96; sends Alvarado to Spain, 97; party in Mexico, 98; arrives in Spain, 105; achieves perpetuity of Indians, 110; fined for gambling, 116; audiencia complains of, 122; uses Indians in building, 122; uses Indians for transport, 127; expulsion recommended, 131; his Indians unnumbered, 136; their treatment, 136; accusations against, 136-137; extorts tribute from Indians, 137; deceives audiencia, 137; house in Cuernavaca, 137; his *residencia*, 137; love of Indians for, 138; opposes Mendoza, 158; Indians seized by audiencia, 226; praised by Motolinía, 253; against branding, 271.
- Council of the Indies: ignorance of geography, 133; brief opinion on government of Indies, 133-134; its weakness, 134; made protectors of Indians, 151.
- Criminals, sent to Indies, 25.
- Crown (*see also* Ferdinand, Isabella, Charles V): dual function in Indies, 19-20; economic interest paramount, 20; fumbling

- policy, 77; Indian towns reserved for, 82; bad government of Indians under, 85; surrenders on encomienda, 91; under influence of Dominicans, 97; towns reserved for, 98; too many laws, 105; corregidores responsible to, 113; double-dealing of, 116; encomienda escheats to, 126; dominion over Indians remains in, 126; encomiendas revert to, 152; new policy, 155; uses forced labor, 157; accepts encomienda, 159; suspicious of servants, 167.
- Cuba: immune from kidnaping, 44; distribution of Indians, 56; number of Indians, 74; Indians relieved of service, 153.
- Cubagua, Las Casas quarrels with commandant of, 143.
- Cuernavaca, tribute paid to Cortés, 137.
- Culua, has dominion over Mexico, 250.
- Cumaná, Las Casas' colony at, 143.
- Dancing (see also *Areytos*), Indians forbidden to practice, 52.
- Delgadillo, Diego: oidor, 98; builds palaca, 227; opposes Franciscans, 237.
- Depopulation, cause of: in islands, 73; in New Spain, 244.
- De Soto, Hernando, expedition to Florida, 251-252.
- Disease, cause of diminution of Indians, 76, 261.
- Dominicans: letter to Chièvres, 9, 10; agitation in favor of Indians, 8; sent to Indies, 49; opposed by colonists, 49; send delegate to Court, 49; colonists complain of, 53; results of agitation, 56; on conditions in Española, 57; convert Las Casas, 57-58; convince Court of undesirability of encomienda, 79; Crown's efforts to satisfy, 95; power at Court, 97; prior ordered to assist audiencia, 97; support Guzmán's party, 104-105; support colonists, 121; monastery erected by Indians, 122; party at Court, 141; mission at Chiribichi destroyed, 142; send Las Casas to Spain, 147; theory, 148-149; strength at Court, 150; responsible for legislation, 150; support encomienda, 168-170; favor perpetuity, 170; policy not that of church, 189.
- Encomenderos (see also Colonists, Conquerors, Spaniards): instruct Indians in religion, 39; forbidden to use force, 39; may not inherit encomiendas, 39; Indians exchanged, 40; supply Indians for royal mines, 44; build houses for Indians, 51; build churches, 51; train Indian boys, 51; abuse of Indians, 86-87; obliged to abolish idolatry, 92; to bring Indian children to monasteries, 92; to maintain priests, 92; may not demand gold of Indians, 92; obtain title to encomienda, 92; must send for wives, 92; made corregidores, 113; fear of, 116; traffic in slaves, 117; refuse to cultivate, 119; Salmerón on, 123; ordered to marry, 124; recognized by Crown, 126; Fuenleal hostile to, 128; use overseers, 128; Salmerón complains of, 131; just complaints of, 132; forced to remain on encomiendas, 139; to build stone houses, 139; lose encomiendas if cruel, 152; may not increase tribute, 153; aristocracy of colony, 154; oppose New Laws, 154; to restore tribute and lands, 157; obliged to have arms, 158; may not leave without consent, 158; inherit encomienda, 159; to build churches, 161; support priests, 161-162; teach Indians, 161; supported by Dominicans, 169-170; few complaints against, 176; value to Crown, 177; independent spirit, 189; evils come from insecurity, 241; use Indian women, 246; controlled by government, 267.

- Encomienda: definition, frontispiece; more important than slavery, 24; source of labor supply, 24; a growth of necessity, 26; first appearance, 27; antecedents, 30; legalized, 31; success of, 32; no right of inheritance, 39; held by priests, 37; priests forbidden to hold, 39-40; *naborías*, 41; redistribution ordered, 41; regulation under Laws of Burgos, 50-55; churches in, 51; exchange of Indians forbidden, 52; visitors, 53; furnish labor for mines, 53; exemption on account of distance, 53; granted during King's pleasure, 55; emolument of office, 56; upheld by colonists, 69-70; favored by Manzanedo, 72-73; Charles V resolves to abolish, 77; defense of, 78; Cortés not to allow in New Spain, 80; his army forces him to give way, 81; necessary for support of colonists, 82; Charles V forbids establishment, 82; case against reviewed by Charles V, 82-84; Cortés defends, 84-86; judiciary may not hold, 86; Cortés' regulation of, 91-93; women and children not to be removed, 91; hours of work, 92; churches to be built on, 92; wages, 92; priest maintained on, 92; title, 92; Cortés petitions for perpetuity, 92; houses to be built on, 93; allowed in new territories, 95; perpetuity granted, 97; preference given married men, 98; Guzmán grants to followers, 102; perpetuity recommended by Zumárraga, 102-103; religious differ on, 105; Charles V calls junta, 107; Indians not to be let, 109; perpetuity, 110; feudal nature of, 112; to be replaced by *corregimientos*, 113; distribution of new territories, 116; suppression difficult, 118-119; result of suppression, 124; absentee ownership abolished, 126; escheats to Crown, 126; Fuenleal hostile to, 128; run by overseers, 128; held by unmarried men, 128; excessive regulation, 132; erection of buildings, 132; opinion of Council of the Indies on, 133; churches ordered built, 135; stone houses, 139; illegality, 150; title insecure, 151; not to be held by civil officers, 152; size to be reduced, 152; no new grants, 152; tribute fixed, 153; inheritability, 157, 159; assigned to institutions, 162-163; remote encomiendas difficult to control, 164; law abolishing suspended, 167; Sandoval's interrogatory, 168-179; favored by Dominicans, 169-170; by Bishop Zárate, 171-172; opinion of Hernán López on, 178-179; law abolishing repealed, 179-180; feudal origin, 183; state necessity, 184; persistence, 188; military unit, 189; semi-independence, 189; grant of, text, 208-209; perpetuity favored by Albornoz, 219; declared vacant, 227; perpetuity favored by Zumárraga, 240; church's need of, 263.
- Enrique (Enriquillo): supposed pacified by Las Casas, 144; in rebellion, 145; subdued by Barrionuevo, 145; death, 145.
- Erb, Konrad: his *Behandlung der Indier*, 15; reliance on Las Casas, 15.
- Española: rebellion in, 20; early conditions, 25-26; type of early settlers, 25; near abandonment, 26; depopulation, 46; failure as a colony, 48; number of encomiendas, 48; emigration to encouraged, 55; conditions, 57; Indians relieved of service, 153.
- Espinal, Alonso de: sent to Spain, 8; slandered by Las Casas, 8; opposes Montesino, 49.
- Estrada, Alonso de: treasurer, 88; governor of New Spain, 96; opposed by Cortés, 96.
- Fabié, Antonio María, his *Vida de Las Casas*, 16.
- Ferdinand the Catholic: regency, 34; cupidity, 34; allows encomienda in Porto Rico, 34; in-

- difference to conversion, 34; approves of *encomienda*, 35; favors slavery, 35; law against adultery, 35; urges more emigration, 36; approves kidnaping, 36; owns Indians, 37; grants *encomiendas* to priests, 37-38; preoccupation with mining, 39; instructions to Diego Columbus, 39-40; takes *encomiendas* from priests, 39-40; income from slave trade, 40; scruples against slavery, 41; income from *encomiendas*, 41; removes tax on kidnaped Indians, 43; complains of inefficiency of royal mines, 43; orders Indians kept at mines, 43; orders officers paid with Indians, 44; hesitates to seize Indians of Trinidad, 44; reduces tax on kidnaped Indians, 44; orders third of Indians to mines, 44-45; approves bringing of Indians from Trinidad, 45; complains of waste in kidnaping, 45; orders idle Spaniards to mines, 45; forbids bringing slaves to Spain, 46; forbids use of carriers, 46; removes tax on kidnaped Indians, 46; urges emigration of Basques, 46; appoints junta, 54; forbids discrimination against Spaniards with Indian wives, 57; death, 59.
- Feudal system: advised for government of Indies, 77; resemblance of *encomienda* to, 78; Indians are Crown vassals, 113.
- Figuerola, Luis de: Jeronymite, 61; named bishop of Santo Domingo, 76.
- Figuerola, Rodrigo de: *juez de residencia*, 75; arrives in Española, 75; instructions, 76; report to Charles V, 77; recommends enslavement of Caribs, 77.
- Fiske, John, accepts *Brief Relation*, 3; admiration for Las Casas, 14.
- Florida, mission to, 252.
- Fonseca, Juan de (Bishop of Burgos): 12; receives slaves, 20; indifference to Indians, 48; hated by Las Casas, 48; has Indians in *encomienda*, 55-56; Las Casas and, 59.
- Franciscans: early indifference to natives, 48; given charge of instruction of Indians, 51; oppose Guzmán, 99; Guzmán complains of, 99-100; become active in protection of Indians, 104; abused by Guzmán, 104; dispute over prerogative, 118; interfere in government, 121; favor *corregimiento*, 132; success, 132; protest against New Laws, 173; protectors of slaves, 185; praised by Albornoz, 210; defamed by *audiencia*, 236; denounce *audiencia*, 238-240; number of monasteries, 251.
- Fuenleal, Sebastián Ramírez de: president of *audiencia*, 111; bishop of Santo Domingo, 111; delays coming to New Spain, 113; brings about abolition of protectorship, 118; blamed for absence, 119; arrives at Mexico, 127; opinion on carriers, 127; urges sale of asses to Indians, 127; appeals for abolition of slavery, 128; hostile to *encomenderos*, 128; favors *corregimientos*, 128; complains of reformers, 129; his prudence, 129; against perpetuity of *encomienda*, 130; his last year, 139; his ability, 139; Mendoza's success partly due to, 139; in junta of Barcelona, 151; weakness of his government, 155; praised by Motolinía, 253.
- Gage, Thomas, uses *Brief Relation* as propaganda, 3.
- Gante, Pedro de, as interpreter, 233.
- Garay, Francisco de, captured by Cortés, 86.
- García, Pedro, report on tribute of Cortés, 137.
- Gold: urge for, 26; Crown's need of, 31; cause of legalizing forced labor, 31; Ferdinand complains of low output, 42; in Trinidad, 44; production diminishes, 70.
- González, Gil, brings Indians to Española, 40.

- Guasucingo: lords of, complain of tribute, 237; persecuted by audiencia, 238.
- Guaxoango, Franciscan monastery at, 100.
- Guerra Cristóbal: expedition to Pearl Coast, 23; sells Indian slaves, 23; contract with Isabella, 23.
- Gutiérrez, Carlos, his *Fray Bartolomé de Las Casas*, 15, 16.
- Guzmán, Nuño de: ships slaves from Pánuco, 42; made president of audiencia, 96; accuses Franciscans, 99-101; his censorship, 101; accused by Zumárraga, 101-102; gives licenses for taking slaves, 102; protests against suppression of slavery, 120; abuse of carriers, 120; exposure by Zumárraga, 229-231; builds mill at Atacubaya, 226; his punishment, 266.
- Helps, Sir Arthur: his *Spanish Conquest*, 7; acceptance of Las Casas, 7, 8, 9; his *Life of Las Casas*, 15.
- Heretics, forbidden to go to Indies, 28, 37.
- Historians: attitude toward Spain and the Spanish conquest, 4-6; influence of *Brief Relation* upon, 10-11.
- Horses: Indians lose fear of, 120; Indians forbidden to have, 161; Indians use, 261.
- Hunger, greatest enemy of colonists, 26.
- Hurricane, of 1508, 43.
- Idolatry, practiced by Mexicans, 80.
- Indians: abuses described by Las Casas, 9-10; by Dominicans, 9-10; kidnaping of, 10; enslaved by Columbus, 20; exploited by Isabella, 21; doubtful status of, 23; taught religion, 27; freedom proclaimed, 27; protected, 27; women not to be seized, 27; intermarriage encouraged, 27; to pay tribute, 27; forced to work in mines, 28; not allowed arms, 28; trade in women, 28; refuse to plant, 28; forced to dwell near Spaniards, 28; forced to work for wages, 29; forced to wear clothing, 29; religious instruction of, 29; abuse forbidden, 29; bathing restricted, 29; towns to be near mines, 30; kidnaping of, 36, 38; made *naborías perpetuas*, 40; redistribution canceled, 41; license for kidnaping, 42; aversion to work, 42; tax on, removed, 43; new towns unsuccessful, 43; number to be kept at mines, 44; royal officers paid with, 44; die of starvation, 46; vices, 50; Laws of Burgos, 50-55; to be brought near Spaniards, 50-51; violence to, forbidden, 51; religious instruction, 51; boys trained as teachers, 51; baptism, 51; treatment of kidnaped Indians, 51; confession, 51; funerals, 51; taught Latin, 51; use as carriers forbidden, 51; dancing forbidden, 52; regulation of use in mining, 52; marriage, 52; labor of women, 52; punishments, 52; wages, 52; runaways, 52; used by caciques, 52; labor of caciques, 53; number in mines, 53; autonomy, 53; to learn trades, 54; children exempted from work, 54; girls kept apart, 54; time given to Spaniards, 54; compelled to cultivate, 54; commutation of service, 55; harm done by reformers, 59; not compelled to move, 65; use as carriers forbidden, 65; not forced to work during rest, 65; pay increased, 65; kidnaping allowed only in Bahamas, 65; character, 67-70; diminution, 71; gathered in villages, 71; organization of villages, 71; incapable of autonomy, 72; better treatment of slaves, 73; abuse due to changes, 73; well treated by priests, 74; little evidence of conversion, 74; cause of diminution, 74, 76; experiment in self-government, 77; freedom decreed by Charles V, 77; Indians of New Spain more civilized, 80; their vices, 80; conquerors demand, 81; Cortés

grants encomienda, 81; instructions of Charles V to Cortés, 83-84; wives and daughters protected, 84; use as carriers discouraged, 84; Spaniards forbidden to mingle with, 84; benefited by encomienda, 85; suffer under government of treasury officers, 89; Cortés granted 23,000, 90; Cortés' laws for their government, 91; taught religion, 91; serve Spaniards, 91; women and children not to be removed, 91; service controlled, 92; hours of work, 92; wages, 92; idolatry suppressed, 92; human sacrifice forbidden, 92; male children taught, 92; given redress, 93; *indios de rescate*, 93; children ordered to Spain, 94; new Indians free, 95; given in encomienda, 95; forbidden to have horses or arms, 98; protected by Zumárraga, 99; used by Franciscans, 100; abuses by Guzmán and audiencia, 100-101; women seized, 101; enslaved by Guzmán, 102; their fate, 102; complain to Zumárraga, 102; preyed upon by vagabonds, 103; engage attention of Crown, 105; use as carriers forbidden without consent, 106; enslavement regulated, 106; forced to carry tributes, 106; free Indians not to be used at mines, 106; or in building houses to sell, 107; gold not to be extorted from, 107; not to be removed during planting season, 107; vagabonds expelled, 107; not to be removed from New Spain, 107; women used in monasteries, 109; abused by interpreters, 109; hiring forbidden, 109; fate under the first audiencia, 111; given status of Crown vassals, 113; under corregimiento, 114; not punished for fighting, 114; warned against bigamy and idolatry, 114; protected, 114; forced to attend mass, 114; religious instruction, 114; Indian *alguaciles*, 115; paid for public work, 115; slave traffic, 115; protectors, 117; in-

struction in government, 115; uprising feared, 116; work at Puebla, 119-120; boys apprenticed, 119-120; grow bold, 120; used by Cortés, 122; used in public buildings, 122; danger of uprising, 122; welfare neglected, 123; conversion slow, 123; abuse by overseers, 128-129; favor *corregimiento*, 129; pacification, 131; Christians separated, 131; tribute reduced, 131; boys preach, 132; opinion of Council of the Indies, 133; pay for churches, 135; tribute paid Cortés, 137; their love for Cortés, 138; boldness, 138; enslavement reestablished, 138; forced to build churches and priests' houses, 139; destroy Pearl Coast mission, 142; rights defended by Victoria, 148-149; New Laws, 151-153; declared Crown vassals, 151; law suits among, 151; slavery prohibited, 151-152; forced labor prohibited, 151; use as carriers restricted, 152; use in mines and fisheries prohibited, 153; suits to be heard by King, 153; seizure forbidden, 153; new Indians free, 153; commute tribute, 156; to work for themselves, 156; used in public works, 156; uprising feared, 158; extortion, 160; profane literature forbidden, 161; idle Indians to be persuaded to work, 161; cheated by interpreters, 162; used in cathedral, 162; lack of supervision, 163; skill at counterfeiting, 164; oppose *corregimiento*, 166; Dominicans' opinion of, 168-169; richer than Spaniards, 172; resist Spanish methods, 175; use carriers, 181; slaves ordered freed, 184; idleness forbidden, 184; civil officers forbidden to use, 184; to be taught Spanish, 185; Mendoza on, 186-188; schools, 186; admission to priesthood, 186; like children, 186; refuse to cultivate wheat, 186; services required of, 186; offices among, 186; in guilds,

- 187; abuse privileges, 187; wages for weeding, 187; Indian judges, 188; avoid service, 187; accept Spanish régime, 189; cannibalism among, 210; adopt Christian food, 211; compared with Spaniards, 211; prefer wine to pulque, 211; intelligence, 212; accustomed to tribute, 212; many wives, 215; slavery among, 215-217; ingenuity, 218-219; lose fear of horses and arms, 220; extortion, 225-230; forced to work for Guzmán, 229; abandon Pánuco, 230; enslaved by Guzmán, 231; welcome Zumárraga, 232, harangued by Zumárraga, 233-234; their oratory, 234; complain of abuses, 236; pay tribute, 237; mortality, 237; used as carriers, 244; abuse common, 246; make arms, 247; plan rebellion, 247; protection, 260; mortality, 261; treatment, 266; cause of diminution, 267.
- Interpreters: regulation, 109; peculations, 116; cheat natives, 162.
- Isabel of Portugal (wife of Charles V): on Negro slavery, 16; ordinances for protection of Indians, 109-110; approves forced labor on public works, 125; pleased with *corregimiento*, 132; legislative activity, 134.
- Isabella the Catholic: sends Indian slaves to galleys, 20-21; contract with Cristóbal Guerra, 23; demands revenue from slave trade, 24; reduces taxes on slaves, 24; appoints Ovando governor of Indies, 27; legalizes *encomienda*, 30-31; death, 32; appoints Ferdinand regent, 32; reputation for humanitarianism, 33; practical statesmanship, 33; Helps on, 33; Riva Palacio on, 33.
- Jalisco (or Xalisco): dangerous character of, 93; colony established at, 122.
- Jamaica: made immune from kidnapping, 44; conversion of natives, 45.
- Jeronymite Fathers: defended by Serrano y Sanz, 17; chosen by Cisneros, 61; Las Casas and, 61-62; belittled by Las Casas, 62; character, 62-63; instructions, 63-65; given discretion, 65; true governors of Indies, 65; caution, 66; denounced by Las Casas, 66; arrival in Indies, 66; letter to Cisneros, 66; remove Indians of absentees, 66; order Indians to work, 66; put miners on salary, 67; recommend Negro slavery, 67; advise sending of colonists, 67; complain of *residencias*, 67; moderation, 67; interrogatory on natives, 67-70; abandon Las Casas' plan, 70; report of Manzanedo, 70-75; reason for failure, 75; complaints against, 75; their government an anomaly, 75; removed from power, 75-76; reception by Charles V, 76; judgment of Las Casas on, 76; Cisneros' instructions to, text, 191-205.
- Jews, forbidden the Indies, 28, 37.
- Knights of the Golden Spur, founded by Las Casas, 143.
- Labor, native: necessity for, 26; Columbus petitions for, 27; in royal service, 27, 29; in private service, 31; shortage of, 42; boys apprenticed to trades, 119-120; forced labor illegal, 150; abundance of, 222.
- Labor, white: shortage of, 44; mechanics forced to work at trades, 38, 42; opposed to native apprentices, 120; scarcity of, 222.
- Land: title remains in Crown, 34; unequal distribution of, 43; abundance of, 261.
- Las Casas, Francisco de, sent against Olid, 88.
- Las Casas, Bartolomé de: publishes the *Brief Relation*, 1; his animus, 4; accused of fomenting slavery, 6; veracity defended, 7, 8; slanders Alonso de Espinal,

- 8; exaggerations, 8, 9, 10; in Española, 9; admiration of Bancroft and Fiske for, 13; compared to Lloyd Garrison, 15; number of biographies, 15-16; foment Negro slavery, 16; on intermarriage of whites and Indians, 35; hatred for Fonseca, 48; on Laws of Burgos, 55-56; in Indies, 57; takes orders, 57; goes to Cuba, 57; friend of Diego Velázquez, 57; holds encomienda, 57; converted by Dominicans, 58; goes to Spain, 58; his philosophy, 58; character, 59; power at Court, 59; sees Ferdinand, 59; interviews Cisneros, 60; his opportunity, 61; chooses Jeronymites, 61; his error, 62; made protector of Indians, 62; belittles Jeronymites, 62; his plan, 63-65; denounces Jeronymites, 66; returns to Spain, 66; cool reception by Cisneros, 66; criticizes Jeronymites, 76; attacks encomienda, 79; on corregimiento, 114; plans to establish colony, 141; obtains grant on Pearl Coast, 141; organizes Knights of the Golden Spur, 142; excites ridicule, 142; goes to Indies, 142; leaves colonists at Porto Rico, 142; rebellion on Pearl Coast, 142; leads expedition to Cumaná, 143; quarrels with commandant of Cubagua, 143; Cumaná destroyed by Indians, 143; reaches Santo Domingo, 143; retires to Dominican monastery, 143; joins Dominican order, 143; failure of colony, 143; character, 143; judgment of Oviedo on, 143; remains in cloister, 143; possible dealings with Enrique, 144; supposed mission to Peru, 144; in Nicaragua, 145; called to Española, 145; preaching complained of, 146; converts Indians of Enrique, 146; in Nicaragua, 146; dispute with Contreras, 146; abandons Nicaragua, 146; goes to Guatemala, 146; Vera Paz mission, 147; sent to Spain, 147-148; his part in framing New Laws, 148; Cisneros instructions to, text, 206-207; controverted by Motolinía, 249-272; his confessionalary burned, 253; reprimanded by Betanzos, 256; comes to Chiapa, 256.
- Latin, to be taught to Indian children, 133.
- Laws of Burgos: Alonso de Espinal aids in framing, 8; due to agitation of Dominicans, 50; provisions of, 50-55.
- Lea, Henry Charles: opinion on Llorente, 6; "The Indian policy of Spain," 14; condemns the Jeronymite government, 14; relies on Las Casas, 14.
- Lezcano, Juan de, given Indian slaves, 20.
- Llorente, Juan Antonio: his *Oeuvres de Las Casas*, 6; hatred of Spain, 6; his *Historia de la Inquisición*, 6; exposed by Lea, 6.
- Loaysa, Cardinal: keeps Las Casas in Spain, 148; reforms Indian code, 148.
- López, Jerónimo: complains to Charles V, 124; delegate to Court, 178.
- López, Hernán, opinion on encomienda, 178.
- MacNutt, Francis: accepts the *Brief Relation*, 3; his *Bartholomew de Las Casas*, 16; condemns William Robertson, 16; his historical method, 16.
- Maize, price of, 177.
- Maldonado, Alonso, oidor, 113.
- Manzanedo, Bernardino de: comes to Indies, 61; sent to Spain, 71; letter to Charles V, 72-75.
- Maraver, Gómez (Bishop): letter to Charles V, 173; against New Laws, 172-173; favors slavery, 173;
- Maria de Toledo: wife of Diego Columbus, 39; holds Indians in encomienda, 56.
- Marriage: of whites and Indians recommended, 27, 29; slender results, 35; fomented, 57; discrimination against, 57.

- Marroquín, Francisco de (Bishop): invites Las Casas to Guatemala, 147.
- Matienzo, Juan Ortiz de: odor, 98; builds palace with Indian labor, 227; Zumárraga pleads with, 247.
- Mendoza, Antonio de: viceroy, 111; debt to Fuenleal, 140; quiet beginning, 155; instructions, 155-156; arrives in New Spain, 157-158; letter to Charles V, 163-166; pacifies colonists, 167; opinion on carriers, 181-182; sent to Peru, 185; letter to Luis de Velasco, 185-188; burns Las Casas' confessionary, 253; praised by Motolinía, 253.
- Mendoza, Domingo de (Cardinal), sends Dominicans to Indies, 49.
- Merriman, Roger Bigelow: his *Rise of the Spanish Empire*, 17; slights Indian question, 17.
- Mesich (or Texclaticupla), god of Mexicans, 250.
- Mestizos: half-breed children uncared-for, 135; to be supported by fathers, 135; apprenticed to trades, 135; government has slight regard for, 136; illusory freedom, 136; live by wits, 136; control Indians, 136; importance today, 136; forbidden to use Indians, 183.
- Mexicans: in Anahua, 249; conquer Mexico, 250; human sacrifice among, 250.
- Mexico (City): fall of, 80; cathedral in bad state, 262.
- Michoacan, cathedral built by Indians, 162-163; 184.
- Minaya, Bernardino de, accompanies Las Casas, 144.
- Mining: need of labor for, 29-30; danger of stoppage, 36; interfered with by weather, 39; chief interest of Ferdinand, 41-42; royal mines unprofitable, 42-43; output increased, 44; Indians in gold mines, 52-53; their fare, 52; women exempted from work in, 54; share system abandoned, 67; Cortés forbids use of encomienda Indians in, 85; supported by slaves, 85; causes abuse of carriers, 103-110; suffers from labor shortage, 164.
- Mint, supported by encomienda, 163-164.
- Missionaries. (*See Religious.*)
- Montejo, Francisco de (Adelantado), grants encomiendas to his family, 183.
- Montesino, Antonio de: sent to Court, 49; opposed by Espinal, 49; persuades Ferdinand to revise laws of Indies, 50; accompanies Las Casas to Spain, 59.
- Mora, Pedro de, opposes sending of Jeronymites, 63.
- Motolinía, Toribio de Benevente: opposes views of Las Casas, 10; accused by Guzmán, 100; letter to Charles V, text, 249-272; pleads for missions to Florida, 251.
- Murray, Gilbert, quoted, 80.
- Naborías*: defined, 40; encomienda Indians are, 41.
- Naborías perpetuas*: defined, 40; kidnaped Indians made, 40.
- Negroes. (*See Slaves, Negro.*)
- New Christians, forbidden the Indies, 28.
- New Laws: Dominicans responsible for, 59; Cardinal Loaysa and, 148; Las Casas and, 148; Francisco de Victoria and, 148; background, 149-150; text of, 151-153; protests against, 168-179; repeal of certain measures, 179-180.
- New Spain: discovered by slave catchers, 42; superior civilization of, 80-81; Cortés reserves cities for Crown, 82; under government of treasury officers, 88-89; Cortés' government, 91-93; slavery in, 93-94; disorder in government, 118; pacified, 130; state at end of Fuenleal's government, 140; stable government, 167; state, 251; defenseless condition, 261; state of religion in, 264; loyalty to King, 266.
- Nicaragua: Las Casas' mission in, 145; expedition to lake, 146.

- Nicuesa, Diego de: delegate of Ovando, 36; goes to Urabá and Veragua, 38; removes Indians from Española, 38.
- Niño, Peralonso, voyages to Pearl Coast, 21-23.
- Oaxaca, Cortés claims, 88.
- Ocampo, Gonzalo de: commands force against Pearl Coast, 142; brings slaves from Pearl Coast, 142; opposed by Las Casas, 142.
- Ojeda, Alonso de, discovers Urabá and Veragua, 38.
- Olid, Cristóbal de, his revolt in Honduras, 88.
- Opileingos, rebellion of, 122.
- Osorio, Diego Alvarez (Bishop), arbitrates dispute between Las Casas and Contreras, 146.
- Otomíes, inhabit Anahua, 249.
- Ovando, Nicolás de: arrival in Española, 25; instructions, 27; starvation of his company, 28; forced to use native labor, 30; his realism, 30; sends men home for wives, 35; pacifies Española, 36; protests sending of colonists, 36; recommends importation of Indians, 36-37; complains of absentee ownership, 37; complains of Jews, Moors and *reconciliados*, 37; petitions against granting encomiendas to priests, 37; complains of colonists' airs of nobility, 38; reports contentment of natives, 38; succeeded by Diego Columbus, 39.
- Overseers. See *Calpisques*.
- Oviedo y Valdés, Gonzalo Fernández de: his opinion of early colonists, 25-26; his judgment of Las Casas, 143.
- Pack animals: number increases in Española, 51; abundance in New Spain, 127; scarcity of at mines, 181.
- Pánuco: slave catching in, 102; inhabitants protest abolition of slavery, 123; destruction by Guzmán, 230.
- Pasamonte, Miguel de: treasurer-general of Indies, 43; ordered to put Indians in mines, 45; holds Indians in encomienda, 56; approves of Jeronymites, 67; realism, 75.
- Pauw, Corneille de: his *Recherches Philosophiques*, 4-5; denounces Spaniards, 5; his theory of conquest, 5.
- Pearl Coast: expedition of Cristóbal Guerra to, 23; of Peralonso Niño, 21-23; warlike inhabitants, 23-24; Las Casas plans colony in, 141-142; rebellion in, 142; destruction of Dominican mission, 142; reprisal against, 142; destruction of Las Casas' colony, 143.
- Pearls: sent to Ferdinand, 38; in Trinidad, 44; use of Indians prohibited in pearl-fishing, 152.
- Peru: attracts colonists from New Spain, 124; Las Casas' supposed mission to, 144; rebellion in, 178-179; Las Casas does not reach, 254.
- Pilar: interpreter, 101-102; henchman of Guzmán, 225; tool of first audiencia, 228-229, 236.
- Pinzón, Vicente Yañez, colonizes Porto Rico, 34.
- Ponce de León, Luis: *juez de residencia*, 87; death attributed to Cortés, 89; instructions, 90-91.
- Porcallo, Vasco, lieutenant of Cortés, 122.
- Porto Rico, colonized by Pinzón, 34; encomienda established in, 34; emigration to, encouraged, 55; Indians rebel, 73; Las Casas leaves his colonists in, 142; Indians relieved of service, 153.
- Portuguese, ship in slaves from Brazil, 185.
- Priests (see also Religious, Dominicans, Franciscans, etc.): allowed encomiendas, 37-38; forbidden to hold encomiendas, 39-40; indifference of secular, 48; selected for Indian towns, 71; paid by Crown, 71; scarcity of, 74, 77; Mexican priests to be converted, 83; salaries, 83; allowed Indian labor, 139; extort money from Indians, 160; inferior quality of secular, 186.

- Protector: Las Casas made, 62; established in New Spain, 95; vague powers of, 96; powers defined, 117; ill effects of, 118; abolished, 118.
- Puebla de los Angeles: founded, 119; reasons for establishment, 123; built by forced labor, 163.
- Puga's *Cedulario*, 113.
- Pulque, Indians prefer wine to, 211.
- Punishment: of Indians by whites forbidden, 52; friars punish Indians, 100.
- Quintana, Manuel José, his *Vidas de Españoles Célebres*, 15.
- Quiñones, Francisco de, brings bulls to New Spain, 263.
- Quiroga, Vasco de, oidor, 113.
- Raynal, Guillaume-Thomas (Abbé): his *Histoire Philosophique*, 6; borrows notions from Pauw, 5; criticizes Spanish chroniclers, 5.
- Reconciliados*, forbidden the Indies, 28, 37.
- Reformers. *See* Dominicans.
- Religious (*see also* Dominicans, Franciscans, etc.): opposed to Laws of Burgos, 72; Cortés asks for, 87; Cortés praises work of, 91; to accompany expeditions, 95; given authority over natives, 95; made protectors, 95; ordered to assist audiencia in Indian cases, 97; pleased with protectorship, 132; to accompany all expeditions, 153; to be sent as missionaries to new territories, 160; to learn native language, 161; quarrel, 161; free to establish monasteries, 184; conversion of Indians under, 186; persecution of, 244-245.
- Residencia*: cause of disorder, 67; *residencia* of Cortés ordered taken, 87.
- Roads: ordered built to relieve carriers, 184; fomented by Mendoza, 186.
- Robertson, William: his *History of America*, 5-6; criticizes philosophic school of history, 6; criticizes Las Casas, 6; denounced by Llorente, 6; criticized by MacNutt, 15.
- Roldán, rebellion of, 22.
- Saavedra, Hernando de, instructions, 94.
- Sacrifice, human sacrifice among the Mexicans, 250, 269.
- Salazar, Gonzalo de: factor, 88; opposes Zumárraga, 234.
- Salmerón, Juan de: oidor, 113; letter to the Council of the Indies, 118; favors slavery, 121; complains of colonists, 123; favors forced labor, 123-124; complains of encomenderos, 131; testifies to Indians' love for Cortés, 138.
- Samaniego, Lope de, sent to Castile, 223.
- Sandoval, Tello de: *juez de residencia*, 167; reception in Mexico, 167; suspends New Laws, 167; uses carriers, 181.
- Santo Domingo, Alonso de, Jeronymite, 61.
- Schools: for boys, 165; for mestizo children, 184, 186.
- Serrano, Antón, delegate of Ovando, 36.
- Serrano y Sanz, Manuel: criticizes MacNutt, 3; his *Orígenes de la Dominación Española*, 17; defense of Jeronymite government, 17.
- Sheep, raising is urged, 70.
- Silk, cultivation, 165.
- Slaves, Indian: estimated number of, 10; sent to Spain by Columbus, 20; uncertain status of, 20; used to man galleys, 20; sent to Spain by Bartholomew Columbus, 21; Isabella prohibits trade in, 22; sent back to Indies, 22; Cristóbal Guerra obtains license to take, 23; abolition not general, 23; capture and enslavement allowed, 23; abolition, 24; a passing feature of colonial life, 24; slavery a punitive measure, 24; not abolished by Isabella, 32-33; Ferdinand approves enslavement of Caribs, 35; fugitive slaves, 37; sent

- from Pánuco to Española, 42; discovery of Mexico and Yucatan due to slave traffic, 42; general permission to enslave Caribs, 47; not to be removed from Indies, 46-47; enslavement of Caribs recommended, 77; enslavement of rebels ordered by Charles V, 83; abundance of in New Spain, 85; *indios de rescate*, 93-94; permission to buy, 94; among Indians, 93; shipment to Spain prohibited, 94; investigated by treasury officers, 95; Guzmán trades in, 102; control of traffic attempted, 109; branding-iron, 109-110; effort to suppress traffic, 115; traffic in by conquerors, 117; registration ordered, 117; persistence of slavery, 118; suppression protested by Guzmán, 120; ill-treatment of, 123; abolition protested by Alvarado, 123; kind treatment by natives, 123; opinion of Fuenleal on, 128; in great demand, 130; Fuenleal against traffic, 130; opinion of the Council of the Indies on, 134; slaves furnished Cortés, 137; increasing demand for, 138; slavery legal, 150; slavery abolished, 152; used in royal mines, 156; sent to Spain, 158-159; taught religion, 161; Mendoza demands, 164; audiencia to have discretion in, 180; traffic in difficult of control, 185; imported slaves freed, 185; liberated by Mendoza, 189; slavery examined, 213-216; slaves kept in mines, 226; taken in Pánuco, 230; shipped to islands, 230; mortality among, 230; number taken by Guzmán, 243; Zumárraga pleads for control of slave traffic, 243, 247; number of, 269-270.
- Slaves, Negro: Robertson on, 16; one Negro equal to four Indians, 16; Las Casas' responsibility for, 16; permission to transport to Indies, 28; importation recommended, 67; use recommended by Zuazo, 70; superior to natives, 70; recommended by Jeronimites, 71; demanded by colonists, 74; use favored by Manzanedo, 74; danger from, 74; immediate shipment urged, 76; used in royal mines, 156; too expensive for mines, 182; plot to rebel, 262.
- Spain: jealousy of foreign states for, 2; the "black legend," 3; traditional attitude of historians toward, 4; Indian policy according to Lea, 14; necessity for rewriting history of Spanish conquest, 17; bulls of donation, 19; reasons for fumbling policy in Indies, 19; responsibility, 19; confused state of, 71; inadequate preparation for colonization, 78.
- Spaniards (*see also* Colonists, Conquerors, Encomenderos): reputation for barbarity, 1; Las Casas the authority for this, 2; opinion of the eighteenth century philosophers on, 5; Las Casas' estimate of their destruction of Indians, 8-9; their treatment of Indians, 18; all *hidalgos*, 37; mechanics obliged to follow trades, 38; given livenses for kidnaping, 42; neglect mining, 42; vagabonds forced to work in mines, 45; working classes to be sent to Española, 46; receive nine months' service of Indians, 54; character in early colonies, 78; Indians of New Spain given to, 81; forbidden to make war upon Indians, 83; punished for abusing Indians, 83; Cortés' opinion of, 84; forbidden to mingle with Indians, 84; forced to give redress for injury to Indians, 93; their manner of acquiring slaves, 94; overload Indian carriers, 103; obliged to register slaves, 106; licensed to take slaves, 106; enslave peaceful Indians, 106; forbidden to extort gold from natives, 107; hated by Indians, 107; punished for mistreating Indians, 114-115; idle Spaniards settled in Puebla, 119;

- oppose taking native apprentices, 120; Salmerón's opinion of, 123; leave New Spain, 124; have no authority over new Indians, 153; to abstain from public sins, 161; many idle, 252; poverty of, 268.
- Solórzano y Pereyra, Juan, quoted on encomienda, 87.
- Sugar, cultivation in Española urged, 70.
- Tacuba: oidores build palaces in, 227; aids Spaniards, 262.
- Tapia, defined, 152.
- Tapia, Cristóbal de, bribed by Cortés, 86.
- Tatelulco, caciques of, persecuted by Guzmán, 101, 229.
- Tepeaca, mortality in, 244.
- Terrazas, Francisco, protests against New Laws, 173.
- Texelaticupla (or Mesich), god of Mexicans, 250.
- Tezucuo, aids Spaniards, 262.
- Tierra Firme, emigration to encouraged, 55.
- Tithes: Indians obliged to pay, 108; difficulty of collection, 139; paid through taxes, 139.
- Tlascal: loyal to Spaniards, 129; exempted from service, 129; not used in building of Puebla, 163; frees slaves, 165.
- Torres, Antonio de, 20.
- Torres, Pedro de, 22.
- Trade: with Indians regulated, 29; free trade with Indians encouraged, 83; Cortés on, 84.
- Treasury officers: receive encomiendas, 41; forbidden to hold encomiendas, 65; government of New Spain under, 88-89; to investigate crimes against natives, 95; jurisdiction over slave cases, 95; hold encomiendas in New Spain, 101; forced to give up encomiendas, 105.
- Tribute: commuted, 27; money tribute impossible, 85; regulation of by protector, 100; exacted by Guzmán, 101; demanded by Spaniards, 107; Indians obliged to pay, 108; tribute of corregimientos, 114; commuted, 122; to be on native standard, 125; reduced by audiencia, 131; limited tribute required of natives, 133; paid Cortés, 137-138; of new Indians, 152; assessment controlled by religious, 153; reduced, 153; regulated by viceroy, 155; commutation forbidden, 181; special officers to collect, 185; Indians avoid payment of, 187; paid to first audiencia, 237.
- Trianguez (native fairs), held daily, 216.
- Trinidad, kidnaping of Indians allowed in, 45.
- Trujillo, government of, 94.
- Vagabonds: forced to work in mines, 45; keep Indian mistresses and servants, 103; responsible for abuse of Indians, 103; forbidden to go among Indians, 107; to be expelled from New Spain, 107; exiled, 184; abuses of Indians by, 246.
- Valencia, Martín de: praised by Zumárraga, 242; letter to Zumárraga, 247.
- Valladolid, Junta of, 151.
- Vega, Hernando de: holds Indians in encomienda, 55-56.
- Velasco, Luis de: viceroy, 185; praised by Motolinía, 253.
- Velásquez, Diego (Governor of Cuba): ordered to distribute Indians, 56; friend of Las Cacas, 57.
- Vera Paz (Española), number of *hidalgos* in, 35.
- Vera Paz (Guatemala): mission in, 147; guaranteed liberties, 147; Motolinía on, 256.
- Victoria, Francisco de: his *De Indis*, 58; friend of Charles V, 148; holds chair of theology, 148; his argument, 148-149.
- Villanueva, Alonso de, delegate to Court, 178.
- Visitors: in encomienda, 53; given encomiendas, 53; their character, 53; not to have encomiendas, 65; religious not to be, 133; oidores and religious to cooperate as, 133.

- Waldman, Milton, his *Americana*, 17.
- Wheat: price of, 177; Indians refuse to cultivate, 186; raised by Indians, 211.
- Winsor, Justin: his *Narrative and Critical History*, 11; chapter on Las Casas, 11; uncritical attitude, 11; sources, 12; errors, 12-13.
- Women (Indian): pregnant women excused from service, 52; married women not to work in mines, 54; not to be forced to work, 65; forced to act as wet-nurses, 137.
- Xuárez, Hernán, to teach Latin to Indians, 51.
- Zacatula, tribute paid by, 212.
- Zárate, Juan de (Bishop), letter to Prince Philip, 171-172.
- Zuazo, Alonso: *juez de residencia*, 65; refuses to interfere with Jeronymites, 66; takes *residencia*, 67; recommends buying of Negro slaves, 70; advocates agriculture instead of mining, 70; reports on kidnaping, 70.
- Zumárraga, Juan de (Bishop of Mexico): made protector of Indians, 95-96; opposes *audiencia*, 99; Guzmán complains of, 99-101; exposes Guzmán and first *audiencia*, 101-104; forbidden to have authority over Indians, 102; his recommendations, 102-103; in charge of branding-iron, 110; requests more power, 117; letter to Charles V, 160; pacifies colonists, 167; letter to Charles V, text, 224-248; welcomed by Indians, 232; opposed by *audiencia*, 234-236; urges perpetuity of *encomienda*, 240; denounces luxury, 242.

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